

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Senator Lana Oleen at 11:05 a.m. on January 30, 1996 in Room 254-E of the Capitol.

Members present were: Senator Oleen, Chair
Senator Tillotson, Vice Chair
Senator Jones, Ranking Minority Member
Senator Gooch
Senator Hensley
Senator Jordan
Senator Papay
Senator Praeger
Senator Ramirez
Senator Vidricksen
Senator Walker

Committee staff present: Mary Galligan, Legislative Research
Mary Torrence, Revisor
Nancy Wolff, Committee Secretary

Conferees appearing before the committee

Terry Roberts, Kansas Nursing Association
Jim Conant, Alcohol and Beverage Control
Dr. Steven Potsic, Director of Health, Kansas Depart. of Health and Environment
Rick Dykstra, a DARE Officer and the 1995 Crime Prevention Officer of the Year
Betty Dicus, representing the American Cancer Society
Dave Debenham, Deputy Attorney General
Ben Scott, Topeka Board of Education
Emily Broxterman, Kansas Youth Ambassador for the Smoke Free Class of 2000
American Lung Association, American Lung Association
Bryan Beaver, Kansas Oil Marketing Assn & Convenience Store Assn
Bill Sneed of the Smokeless Tobacco Council
Chaniqua Fleming, Junction City High School Student
Stacy Buress, Junction City High School Student

Senator Praeger requested a Point of Personal Privilege to introduce Farah Maalim, a member of the National Parliament of Kenya who was visiting the Kansas Legislature for the day.

Senator Oleen directed the committee's attention to the supplemental note on **HB2544**. The bill would amend existing law to prohibit sale of cigarettes and tobacco products from vending machines unless those machines are in an establishment or portion of an establishment that is not open to minors. There would be three exceptions to the law. 1) The prohibition would not extend to vending machines installed for use by the proprietor of a business, or the proprietor's agents or employees, behind a counter or in a place to which, by law, minors do not have access; 2) The bill would permit the installation and use of a vending machine in a commercial building or industrial plant or the portion of such a building where the public is to customarily admitted and where machines are intended for the sole use of adults employed in the building or plant; and 3) An exception would be made for a vending machine with a lock-out device and which requires manual activation by a person supervising the operation of the machine each time cigarettes or tobacco products are purchased from the machine. Mary Galligan stated that there are a couple of technical items that need to be addressed. When the bill was amended in the House the intent was to remove minors who purchase or attempt to purchase from the provisions of the bill. As the bill is currently drafted, that is not accomplished, but it was the intent.

Senator Ramirez questioned what would happen to someone under 18 who purchases cigarettes. Mary Galligan stated that as the bill is currently drafted, there would not be any punishment, either by fine or imprisonment and such child would not come under the Code for the Care of Children.

Terry Roberts, Kansas Nursing Association, testified as a proponent to **HB2544** (Attachment 1). Jim Conant, representing the Alcohol and Beverage Control Department, testified in favor of **HB2544** (Attachment 2). His testimony incorporated several amendments to the bill as outlined on pages 2 and 3 of his presentation. Mr. Conant also included with his testimony a chart that illustrated the ABC's check of underage cigarette sales and the compliance checks. The final page of his testimony illustrates the penalties for underage

purchases under current law and under **HB2544**. Dr. Steven Potsic, Director of Health for the Kansas Department of Health and Environment, testified as a proponent of **HB2544** (Attachment 3). Rick Dykstra, a DARE Officer and the 1995 Crime Prevention Officer of the Year for the State of Kansas testified in support of restrictions on the sale of cigarettes to minors as well as penalties for retailers making illegal sales (Attachment 4).

Betty Dicus, representing the American Cancer Society testified in support of **HB2544** (Attachment 5) Her printed testimony also included a reprint from the 8th World Conference on Tobacco or Health, the final conference report and recommendations from America's Health Community "Tobacco Use: An American Crisis", and an article from The Robert Wood Johnson Foundation on "Nation's First Survey Released Focusing on Youth Access to Tobacco".

Dave Debenham, Deputy Attorney General, Criminal Division, appeared on behalf of Attorney General Carla J. Stovall, to seek the support of the committee for **HB2544** (Attachment 6). Ben Scott, representing the Topeka Board of Education and the administration of Topeka Unified School District 501 appeared to present testimony in support of **HB2544** (Attachment 7). Emily Broxterman, the Kansas Youth Ambassador for the Smoke Free Class of 2000, spoke in support of the bill (Attachment 8). Representing the American Lung Association of Kansas, Doug Wright, President Elect, testified in support of **HB2544** (Attachment 9). Bryan Beaver, representing the Kansas Oil Marketing Association and Convenience Store Association, spoke in support of **HB2544** (Attachment 10). Bill Sneed of the Smokeless Tobacco Council, presented testimony supporting the legislation. Chaniqua Fleming and Stacy Buress, both Junction City high school students representing Geary County Project Freedom, each gave testimony in support of **HB2544** (Attachment 11 & 12).

Senator Oleen announced that the next meeting for the Federal and State Affairs Committee would be held on Wednesday, January 31, when a hearing on **SB 528**--English declared the common language of the state; use required in open public meetings and open public records.

There being no other business, the meeting was adjourned at 12:00 noon.



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the Voice of Nursing in Kansas

Betty Smith-Campbell, M.N., R.N., ARNP
President

Terri Roberts, J.D., R.N.
Executive Director

Of all the things that will confuse historians of the next century, certainly the idea of a lethal product, a product of illness and despair, peddled to youngsters for the profit of the peddler, will be the most confusing.

*William Foege
Proceedings of the 8th World Conference on
Tobacco OR Health*

FOR MORE INFORMATION CONTACT:

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January 30, 1996

HB 2544 CIGARETTES AND TOBACCO PRODUCTS REGULATION AND TAXATION ENFORCEMENT

As amended by House

Senator Oleen and members of the Senate Federal and State Affairs Committee, my name is Terri Roberts JD, RN and I represent the Kansas State Nurses Association. I also serve as the Chairperson of the Policy Development Task Force for the Tobacco Free Kansas Coalition. I am here today as a proponent for HB 2544.

There are a number of Tobacco Free Kansas Coalition organization's represented at today's hearing. We are all encouraged by this opportunity to discuss youth access to tobacco issues. As a coalition, we have been coordinating information about this bill and this issue overall with the KDHE Bureau of Disease Control and Prevention staff, Julia Francisco and Bob Swafford; Nancy Lindborg in the Attorney General's Office; and Jim Conant with the Department of Revenue, Alcohol and Beverage Control Division. We are grateful for their cooperation and information on issues related to this public policy initiative.

As registered nurses, we support restrictions on the sale of cigarettes to minors and appropriate civil penalties for retailers who make illegal sales.

In November/December 1993, the Kansas Department of Revenue Division of ABC conducted baseline testing by checking 167 retailers for the sale of cigarettes to minors. 121 or 72.5% made illegal sales. May through June 1994, ABC conducted an awareness campaign by sending informational letters to retailers and press releases. Another check of retailers in August of 1994, 275 retailers were checked and the results reflected significant compliance, with only 128 illegal sales or 46.5% non-compliance. In 1995, compliance checks resulted in an overall illegal sale rate of 52%.

The mission of the Kansas State Nurses Association is to promote professional nursing, to provide a unified voice for nursing in Kansas and to advocate for the health and well-being of all people.

Constituent of The American Nurses Association

*Attachment
Exhibit 1
Federal and State Affairs
1/30/96*

Certainly, ABC should be highly commended for pursuing this data collection and awareness campaign. However, as a matter of public policy we urge your support of HB 2544 that will give ABC a vehicle for addressing illegal sales. Civil fines have been used in other enforcement actions with some successes.

Access to cigarettes is only one piece of the legislation in preventing adolescents from beginning to smoke. But, it is an extremely significant piece whose benefit far outweighs the cost.

The following are a few statistics about adolescent smoking:

*The tobacco cartel claims the \$4.6 billion it spends each year on advertising and promotion is not intended to entice youth.

*According to a study released by the Centers for Disease Control and Prevention (CDC), the three most advertised brands--Marlboro, Camel and Newport--account for 86% of tobacco sales to children. By contrast, only 35% of adult smokers smoke these brands.

*In another study of high school seniors who smoke, 9 out of 10 predicted they would not be smoking in five years. Unfortunately, 70% of those who smoked a pack a day were still smoking a pack or more five or six years later.

*The report, by members of the National Academy of Sciences, noted that nearly 9 of every 10 adults who smoke daily began smoking by age 18. Sixty-two percent began smoking by their sixteenth birthday.

*On December 30, 1994, twenty-five Attorneys General issued a report on the problem of illegal tobacco sales to minors. The document is a result of an eight-month study by a Working Group of State Attorneys General on tobacco. The Working Group found that, nationwide, over one billion packs of cigarettes and twenty-six million containers of smokeless tobacco are sold illegally to minors every year. Of the 3,000 youngsters who begin smoking every day, as many as one quarter will eventually die of tobacco-related illnesses. The Working Group concluded, that if sales-to-minors laws were strictly obeyed, and youth access to tobacco were controlled effectively, smoking could be greatly reduced as a major health problem in our society.

Additionally I have attached to my testimony a copy of **Preventing Tobacco Use Among Young People, A Report of the Surgeon General At a Glance** and a February 27, 1995 Ann Landers column of interest on tobacco promotions to children.

Thank you.

ADVICE

Tobacco industry tactics blasted

DEAR ANN LANDERS: Please tell me what the tobacco industry is trying to do. I keep seeing big, expensive ads by Philip Morris and the Tobacco Institute beating the drum for "People's Rights." They really are slick. They talk about "freedom to choose." And the appealing pictures of Joe the Camel are clearly directed at young people.



Ann Landers

Advice

It is a cleverly crafted advertising campaign to make smoking attractive.

The truth is that more than 419,000 Americans die every year from lung cancer and cigarette-related problems. Will you please explain how the tobacco industry gets away with this? — GERALDINE IN HAGERSTOWN, MD.

DEAR GERALDINE: The next letter will give you a far better explanation than I can. Here it is:

DEAR ANN LANDERS: I am a former lobbyist for the Tobacco Institute, which is the propaganda

arm of the tobacco industry. I am also a former smoker. I am now a throat cancer patient. My life expectancy, I am told, is limited.

I worked for four to six years for the Tobacco Institute to stop legislative efforts to restrict smoking in public places. My technique was to do whatever it took to win. And I did.

I know now that in my effort to help the tobacco industry, I hurt some innocent people. Profits are the sole motivation of the tobacco industry. It is not interested in public health. All I can do now is try to make amends.

The industry's current national "Smokers' Rights" and "Accommodation" campaigns are smoke screens, pure and simple. These messages come from the same people who still maintain that nicotine is not addictive. People who choose to smoke should be permitted to do so. But there is no constitutional "right" to force non-smokers to inhale secondhand smoke. The tobacco industry keeps saying secondhand smoke is not dangerous. Yet scores of worldwide health agencies say it can cause lung cancer.

I pray that your readers will remember this when they see their next tobacco industry billboard or newspaper ad or hear a radio or television commercial. I wish I had. — VICTOR CRAWFORD.

ROCKVILLE, MD.

DEAR VICTOR FROM ROCKVILLE: I hope your letter goes up on thousands of office, school and factory bulletin boards. You've done your good deed for the day. Here's some good news:

A Miami judge ruled last December that airline flight attendants could sue leading tobacco companies for smoking-related problems.

Judge Robert P. Kaye of the Circuit Court for Dade County ruled that a so-called passive-smoking suit filed in 1991 by 25 non-smoking former flight attendants of several airlines against Philip Morris and other cigarette manufacturers could go forward as a class action. The flight attendants' attorney said they would seek damages of more than \$1 billion and that 60,000 current and former flight attendants could be part of the lawsuit.

Stanley M. Rosenblatt, a Miami trial lawyer, was happy with the judge's decision. He said America's tobacco companies have been lying to the public for the past 40 years about the effects of smoking and getting away with it. And I, Ann Landers, say, "Hooray." It's about time somebody nailed 'em.

GEM OF THE DAY: Drive as if you owned the other car.

Creators Syndicate Inc.

Preventing Tobacco Use Among Young People

A Report of the Surgeon General

At a Glance



More than 400,000 premature deaths occur each year in the United States from tobacco-related causes. This epidemic is totally preventable—and the key opportunities for prevention are childhood and adolescence.

"Most people who are going to smoke are hooked by the time they are 20 years old."

—M. Joycelyn Elders, M.D., Surgeon General

Why Keeping Kids Tobacco-Free Is Important

Tobacco use usually begins in early adolescence, typically by age 16. Almost all first use occurs before young people graduate from high school. If adolescents can be kept tobacco-free, most will remain tobacco-free for the rest of their lives.

- ◆ At least 3.1 million adolescents are current smokers. Smoking is most common among 17- and 18-year-olds; about 25 percent of these young people smoke.
- ◆ By age 18, about two-thirds of young people in the United States have tried smoking.
- ◆ Nicotine is generally the first drug used by young people who use alcohol, marijuana, and harder drugs.
- ◆ Adolescent tobacco use is associated with being in fights, carrying weapons, and engaging in higher-risk sexual behavior.

Major Conclusions

1. Nearly all first use of tobacco occurs before high school graduation.
2. Most young people who smoke are addicted to nicotine and report that they want to quit but are unable to do so.
3. Tobacco is often the first drug used by young people who use alcohol and illegal drugs.
4. Among young people, those with poorer grades and lower self-images are most likely to begin using tobacco.
5. Cigarette advertising appears to increase young people's risk of smoking by conveying that smoking has social benefits and that it is far more common than it really is.
6. The most effective preventive programs are communitywide ones that combine education and public policy approaches.



U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Public Health Service
Centers for Disease Control and Prevention
National Center for Chronic Disease Prevention and Health Promotion
Office on Smoking and Health

1-4

Tobacco Sales: In Search of New Consumers

The tobacco industry loses—and therefore must replace—some two million consumers each year, either because they quit smoking or because they die. Studies show that the vast majority of new consumers will come from the ranks of young people. Intentionally or not, then, successful tobacco marketing influences adolescents.

- ◆ *Print media* remain an important source of tobacco advertising. After automobiles, cigarettes are the most heavily advertised retail product.

- ◆ Especially in inner-city neighborhoods, young people may be repeatedly exposed to *outdoor billboards* portraying apparent benefits of tobacco use.
- ◆ Increasingly, tobacco companies market their products through *promotional activities* that reach youth. These activities include sponsoring sporting and musical events, distributing specialty items that bear brand names, and encouraging stores to carry point-of-sale displays.

"Clearly, young people are being indoctrinated with tobacco promotion at a susceptible time in their lives."

—M. Joycelyn Elders, M.D., Surgeon General

Pictures of Health? Misleading Images in Tobacco Advertising

Ads for tobacco products have become short on words and facts—and long on visual images that suggest positive associations.

- ◆ Cigarette ads visually associate smoking with independence, healthfulness, adventure-seeking, and physical attractiveness—themes that appeal to young people.

- ◆ These attractive pictures suggest that smoking is a powerful tool for improving self-image. Young people with low self-esteem are particularly receptive to this message.
- ◆ The pervasiveness of cigarette advertising may suggest that smoking is more common than it really is. Young people are far more likely than adults to greatly overestimate the prevalence of smoking.

Prevention—Programs That Work for Young People

Promising results have been seen in school-based programs that teach young people how to resist social influences to smoke. Such programs are even more successful when they are supported in the adolescent's home and community.

Other measures that appear to discourage youth from trying tobacco include

- ◆ Taxes that raise the price of cigarettes.
- ◆ Strongly enforced laws that prohibit the sale of tobacco to young people.
- ◆ Policies in the school, workplace, and community that restrict smoking.

Most Americans strongly favor policies that might prevent tobacco use among youth.

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Division of Alcoholic Beverage Control

MEMORANDUM

TO: Senator Lana Oleen, Chairperson
Senate Committee on Federal & State Affairs

FROM: Jim Conant, Chief Administrative Officer
Alcoholic Beverage Control Division

DATE: January 30, 1996

SUBJECT: House Bill 2544

Thank you for the opportunity to appear today in support of House Bill 2544. The ABC Division, in partnership with the Department of Health and Environment and the Department of Social and Rehabilitation Services, is involved in an ongoing effort to reduce the risks associated with early access to tobacco products by youth in Kansas. ABC's role - regulation and enforcement of the cigarette and tobacco products industry - is one element of a comprehensive strategy including education, prevention and cessation programs. While none of these programs alone may solve the problems of underage access, a coordinated approach, with each element providing the right intervention at the right time, provides a cost-effective means to ensure an improved quality of life for young people. House Bill 2544 provides much-needed direction and tools to ensure that the State's regulatory responsibility is being met through an effective deterrent to underage access to cigarettes and tobacco products.

ABC involvement with underage access to tobacco began with an attempt to establish a baseline measure of licensee compliance in the fall of 1993. Utilizing underage volunteers, agents found that an illegal sale was made by 73% of the licensees checked. As it became clear that there was a need for education of retailers and their clerks regarding the age law, the agency initiated an educational mailing to all licensees, and participated in efforts to publicize the current law. In fiscal year 1995, compliance checks were conducted on a larger scale, resulting in an overall illegal sale rate of 52%. Although availability of funds has limited our ability to continue with checks on an appropriate scale, the three counties sampled to date in fiscal year 1996 showed an overall illegal sale rate of 64%. Federal standards established to assist in measuring the effectiveness of state compliance programs set a maximum illegal sale rate of 20%, with achievement of this goal linked to future substance abuse prevention and treatment grant allocations.

House Bill 2544 addresses youth access to tobacco on two fronts by 1) upgrading and funding the regulatory and enforcement structure, and 2) clarifying the State's overall policy regarding availability of these products to young people. The key points of the bill are as follows:

*Attachment
Exhibit 2
Federal and State Affairs
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Regulatory/enforcement issues

- General upgrade of Article 33, including consolidation of acts and modernization of tax collection procedures.
- Authorize administrative fines as penalty for licensees who violate the act (New Section 14). Current law only allows for suspension or revocation of license - graduated penalties are believed to be most effective in encouraging voluntary compliance.
- Allocate license fees and fines for use in support of enforcement efforts (Section 13 & New Section 14). Shifts approximately \$30,000 per year from SGF to proposed cigarette and tobacco products regulation fund. It should be noted that due to current renewal cycles, licensee fee money would not be available in quantity until early in 1998.
- Establish false ID defense for licensees (Section 8). Proposed defense is patterned after similar provisions for liquor licensees, recognizing that underage persons will attempt to purchase cigarettes using false identification documents.

Policy Issues

- Ban vending machines in any place accessible to minors unless the machine: 1) is located behind a counter or in an area where minors are prohibited by law from having access; 2) is in a commercial building or plant where the public is not admitted and machines are intended for the sole use of adults; or, 3) has a lockout device which requires manual operation by a person supervising the machine (Section 5).
- Expand underage sale restrictions to include furnishing by any means (Section 7). This clarifies that it is illegal to furnish cigarettes and tobacco products to underage persons, regardless of whether the products are sold or given without cost.
- Prohibit underage possession of cigarettes and tobacco products (Section 7). A companion measure to the furnishing restriction, this would make it illegal for persons under age 18 to be caught in possession of these products, regardless of whether they bought or attempted to buy them themselves.

Each of these elements is a building block in a comprehensive structure which will educate young people and merchants on the health and other risks associated with early access, prevent easy access to these products for young people and enforce the law with those who choose not to comply.

Finally, the division recommends the following amendments to further enhance the bill's effectiveness.

- Page 12, line 26 - if it is intended that vending machines be legal as provided in subsection (t) of this statute, subsection (q) should be returned to its original condition.
- Page 13, line 41 - new language in subsection (c) points to the wrong statute. The following (or similar) language is suggested to clarify the intended penalty for underage possession:
(c) A person under 18 years of age who possesses or attempts to possess cigarettes or tobacco products shall not be subject to prosecution or punishment under this statute, except that all cigarettes or tobacco products found in the possession of such person shall be forfeited pursuant to K.S.A. 79-3323 and amendments thereto.

- Page 18, line 3 - a correction is needed to reference subsection (n) of K.S.A. 79-3321. In addition, we would recommend that subsection (m) of K.S.A. 79-3321 (underage purchase) be included in this exemption from the child in need of care law.
- New language should be added to the bill authorizing the Director of Taxation to release lists of cigarette licensees to law enforcement officers or agencies having authority to enforce the act. The department is currently prohibited by K.S.A. 75-5133 from releasing "information received by the director of taxation from applications for licensure," stopping local enforcement from accurately identifying all businesses licensed to sell cigarettes. Community support is essential to the overall success of this statewide initiative.

Thank you again for your attention to this issue. I would be happy to answer any questions the committee may have.

ALCOHOLIC BEVERAGE CONTROL

UNDERAGE CIGARETTE SALES COMPLIANCE CHECKS

FY 95

COUNTY	NO. OF LIC. INV.	NO. OF LIC. IN VIO.	DATE	% SOLD
SHAWNEE	100	38	8-94	38%
LEAVENWORTH	24	2	8-94	8%
JOHNSON	24	0	8-94	0%
OSAGE	28	7	8-94	25%
SEDGWICK	40	32	9-94	80%
BUTLER	30	22	1-95	73%
RILEY	29	27	2-95	93%
LYON	22	12	3-95	55%
COWLEY	18	10	3-95	56%
GEARY	24	17	5-95	71%
DOUGLAS	30	20	5-95	67%
RENO	25	18	5-95	72%
TOTALS	394	205		52%

FY 96

COUNTY	NO. OF LIC. INV.	NO. OF LIC. IN VIO.	DATE	% SOLD
SALINE	30	17	10-95	57%
DOUGLAS	20	12	10-95	60%
SEDGWICK	35	26	1-96	74%
TOTALS	50	29		64%

NOTE: FY 94 baseline study established initial illegal sale rate @ 73%.

PENALTIES FOR VIOLATION OF CIGARETTE AND TOBACCO PRODUCTS LAWS

2-5

VIOLATION	CURRENT LAW		HB 2544	
	INDIVIDUAL	BUSINESS	INDIVIDUAL	BUSINESS
Sale to person under 18	Max. \$1,000 fine and/or 1 year in jail	Suspend/revoke license. No fine.	\$500-\$2,500 fine and/or 1 year in jail	Suspend/revoke license. Max. fine \$1,000.
Furnishing to person under 18	Max. \$1,000 fine and/or 1 year in jail	Suspend/revoke license. No fine.	\$500-\$2,500 fine and/or 1 year in jail	Suspend/revoke license. Max. fine \$1,000.
Distributing samples to person under 18	\$500-\$2,500 fine and/or 1 year in jail	Suspend/revoke license. No fine.	\$500-\$2,500 fine and/or 1 year in jail	Suspend/revoke license. Max. fine \$1,000.
Purchase by person under 18	Max. \$1,000 fine and/or 1 year in jail	N/A	Max. \$1,000 fine and/or 1 year in jail	N/A
Possession by person under age 18	N/A	N/A	Confiscation of product	N/A

State of Kansas

Bill Graves



Governor

Department of Health and Environment

James J. O'Connell, Secretary

Testimony Presented to

Senate Federal and State Affairs

by

The Kansas Department of Health and Environment

House Bill 2544

The Kansas Department of Health and Environment supports HB2544 because of the impact it can have on the future health of our Kansas youth.

Madam Chair and members of the committee, we are addressing a major health concern. Our youth are becoming addicted to a drug which will cause them serious illness and premature death, and this problem is not going away on its own.

We must all be in harmony over the issue of Kansas youth and tobacco. Thirty-one years ago the Surgeon General's Report spoke to the ill-health effects of tobacco use. More recently, the Surgeon General's Report issued in 1994, "Preventing Tobacco Use Among Young People", stated that childhood and adolescence were key for prevention of more than 400,000 premature deaths which occur each year from tobacco-related causes.

In the report, evidence was presented to show that although smoking among adults has declined, smoking among youth has actually increased over the past decade. At least 3.1 million adolescents are current smokers. About 25 percent of 17 and 18-year-olds smoke.

Among the major conclusions of the 1994 Surgeon General's report is "most young people who smoke are addicted to nicotine and report that they want to quit but are unable to do so." A second major conclusion was, "The most effective preventive programs are community-wide efforts that combine education and public policy approaches." The ability to enact community-wide public policy changes is the issue which HB2544 addresses.

Practically no adult begins smoking: new smokers are primarily teenagers. According to a survey conducted by KDHE staff in 1994, more than 80 percent of Kansans who ever smoked began smoking cigarettes before the age of 18.

A study conducted by the University of Michigan found that cigarette smoking rose again in 1995 among American youth. Some 19 percent of the eighth-graders and

Attachment

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28 percent of the tenth graders now report smoking. Since 1992, the smoking rate has risen by more than one-fifth among high school seniors, with one in three (34 percent) now saying they smoked in the 30 days prior to the survey.

The impact of youth access to tobacco products laws has been shown to be effective. A DePaul University study of Woodridge, Illinois Licensing Law showed an overall smoking reduction by over 50 percent. In Woodridge, a local licensing law was enacted in 1990. Before licensing, 83 percent of stores sold to 13 year olds, even after a police warning! After suspending the licenses of repeat offenders, zero sales were made in back-to-back tests.

Currently, limiting youth access to tobacco is gaining more and more support. For example, a 1994 survey conducted by KDHE indicated 86% of Kansans think that minors should not be allowed to purchase tobacco. Thursday of last week over 750 teens from across Kansas came to the Capitol to show their commitment to living tobacco free during the STAR (Smokefree Teens Are Rising) Rally. They expressed concern about the fact that their friends can purchase cigarettes in almost any community across Kansas.

As the state health agency, KDHE has the responsibility to address the causes of disease and death in Kansas. Tobacco use is the leading preventable cause of disease and death in our state. The question is not, "How do we get our young people to stop smoking?", but instead, how do we help our young people not to smoke in the first place?" Strict enforcement of youth access laws at all levels is an effective way to tell young people that smoking is not normal behavior. We strongly urge, for the good health of our youth, that HB2544, be adopted.

Testimony presented by:

Steven Potsic, M.D., M.P.H.
Director of Health
Kansas Department of Health and Environment
January 30, 1996

HB 2544
CIGARETTES AND TOBACCO PRODUCTS
REGULATION AND TAXATION ENFORCEMENT

Senator Oleen and members of the Senate Federal and State Affairs Committee, my name is Rick Dykstra and I'm a DARE Officer and the 1995 Crime Prevention Officer of the Year for the State of Kansas. I am here today as a proponent for HB 2544.

As a DARE Officer, I support restrictions on the sale of cigarettes to minors and appropriate civil penalties for retailers who make illegal sales.

Tobacco use is the single most preventable cause of premature death and disability in Kansas. Three out of four Kansans believe that it is very easy or relatively easy for minors to buy cigarettes and other tobacco products in their community. Kansas is one of 18 states that has no restrictions concerning tobacco and vending machines. According to the CDC, research shows that minors succeed in buying cigarettes 90-100% of the time through vending machines. According to a national survey funded by the Robert Wood Johnson Foundation, 74% of Americans support banning all cigarette vending machines. In addition to banning vending machines, 94% of Americans support ID verification by vendors selling to anyone who may appear under age.

Though vending machines are only one aspect of HB 2544, it's part of a bill that will make a positive difference in the health and welfare of our youth. As a DARE and prevention officer, I'm concern about our youth and their access to tobacco products. I urge you to pass HB 2544.

*Attachment
Exhibit 4
Federal and State Affairs
1/30/96*



KANSAS DIVISION, INC.

THERE'S NOTHING MIGHTIER THAN THE SWORD

STATEMENT IN SUPPORT OF HOUSE BILL 2544
BY THE AMERICAN CANCER SOCIETY
KANSAS DIVISION, INC.

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
JANUARY 30, 1996

MADAM CHAIRPERSON AND MEMBERS OF THE COMMITTEE...MY NAME IS BETTY DICUS, AND I APPEAR ON BEHALF OF THE AMERICAN CANCER SOCIETY, KANSAS DIVISION, INC. THANK YOU FOR THE OPPORTUNITY TO SPEAK WITH YOU IN SUPPORT OF HOUSE BILL 2544.

IN PARTICULAR, THE AMERICAN CANCER SOCIETY SUPPORTS THIS BILL FOR THE POSITIVE STEPS IT TAKES FOR LIMITING YOUTH ACCESS TO CIGARETTES AND TOBACCO IN KANSAS.

RESULTS OF A NATIONAL SURVEY BY THE ROBERT WOOD JOHNSON FOUNDATION, THE COUNTRY'S LARGEST PRIVATE GRANT MAKER IN THE HEALTH FIELD, RELEASED FEBRUARY 1, 1995, RECONFIRMS SOME SAD STATISTICS ABOUT YOUTH ACCESS TO TOBACCO NATIONWIDE. WE CERTAINLY BELIEVE THESE STATISTICS MIRROR ATTITUDES AND BEHAVIORS IN KANSAS. A COPY OF THE SURVEY RESULTS IS ATTACHED TO YOUR COPY OF MY STATEMENT, BUT I WILL SHARE SOME OF THE MORE IMPORTANT POINTS.

- * THE AVERAGE TEEN SMOKER STARTS AT AGE 13 AND BECOMES A DAILY SMOKER BY AGE 14-AND-A-HALF.
- * 80% OF THE CHILDREN WHO SMOKE HAVE TRIED TO QUIT, YET ONLY 1.2% SUCCEEDED.
- * 68% OF ADULTS, AND 81% OF YOUNG ADULTS (18 TO 24 YEARS OF AGE) BELIEVE IT IS VERY EASY OR SOMEWHAT EASY FOR KIDS TO BUY

1315 SW ARROWHEAD ROAD • TOPEKA, KANSAS 66604-4020
(913) 273-4114 • FAX (913) 273-1503

*Attachment
Exhibit 5
Federal and State Affairs
1/30/96*

TOBACCO PRODUCTS.

* FOR THE PURPOSE OF REDUCING YOUTH ACCESS TO TOBACCO PRODUCTS,
THE MAJORITY OF ADULTS SUPPORT BANNING THE FOLLOWING:

- * 74% SUPPORT BANNING ALL CIGARETTE VENDING MACHINES
- * 91% SUPPORT BANNING CIGARETTE VENDING MACHINES ACCESSIBLE
TO KIDS
- * 78% SUPPORT BANNING SELF-SERVICE DISPLAYS IN STORES

ALSO ATTACHED TO MY TESTIMONY YOU WILL FIND YOUTH ACCESS ARTICLES
FROM OTHER SOURCES.

IN CLOSING, I WOULD LIKE TO QUOTE FORMER U.S. SURGEON GENERAL
ANTONIA C. NOVELLO FROM ONE OF THE REPORTS YOU HAVE RECEIVED:
" . . ONLY A VERY SMALL NUMBER OF PEOPLE, REGARDLESS OF RACE, START
SMOKING AFTER AGE 30. IN FACT, WE KNOW VERY WELL THAT NEARLY 90%
OF SMOKERS BECOME REGULAR SMOKERS BEFORE THEY TURN 21. "

A MAJORITY OF AMERICANS ARE IN FAVOR OF STRONGER RESTRICTIONS ON
YOUTH ACCESS TO TOBACCO PRODUCTS AND I ENCOURAGE YOU TO PASS HOUSE
BILL 2544 FOR THE HEALTH OF YOUNG KANSANS.

THANK YOU FOR YOUR CONSIDERATION.



8th WORLD
CONFERENCE
on TOBACCO
OR HEALTH

Building a Tobacco-Free World

March 30 - April 3, 1992
Buenos Aires, Argentina

YOUTH: AN URGENT CHALLENGE FOR TOBACCO CONTROL

Antonia C. Novello
Surgeon General, U.S. Public Health Service

As a pediatrician and the Surgeon General, I have dedicated my career to protecting the health of children. That's why there is no more important issue for me to address today than the issue of smoking by children and adolescents. They hold the key to progress toward a tobacco-free generation around the globe.

In the United States, although we have made fairly dramatic gains in recent decades against adult smoking, tobacco use among our youth continues to be a public health epidemic. Allow me to share with you our experiences in the hope that this information will assist you in planning prevention programs in your respective countries.

Each day in the United States, about 3,000 young people become regular smokers. During their lifetime, we can expect that, of these 3,000 young people:

- about 30 will be murdered;
- about 60 will die in traffic accidents; and
- about 750 of them will be killed by a smoking-related disease.

As you can see, cigarette smoking in the United States clearly outweighs any other factor, whether voluntary or involuntary, as a cause of death.

We know that the percentage of daily smokers among high school seniors decreased substantially in the late 1970's; since 1980, however, smoking prevalence rates among youth have leveled off. In fact, for 4 consecutive years since 1987, smoking has actually been inching up among male high school seniors and currently the rates are similar for both males and females.

A particularly troubling statistic in the United States is that the age of initiation of smoking has fallen dramatically over time for both African-American and

white females, while the age of initiation for smoking among males has remained virtually unchanged, with African-American youth starting to smoke later than white youths and only a very small number of people, regardless of race, starting smoking after age 30. In fact, we know very well that nearly 90 percent of smokers become regular smokers before they turn 21.

We also know that age of initiation is an important variable for two major reasons. First, the younger an adolescent begins smoking, the greater chance he or she will become addicted as an adult. Surveys have shown that many children and adolescents are unaware of, or underestimate, the addictive nature of smoking.

By the time smokers become adults, when they would be expected to have greater appreciation of the health effects of smoking, many have difficulty quitting. This insidious process of nicotine addiction refutes the argument that smoking is a matter of free choice.

Second, the younger a person begins regular smoking, the greater chance he or she will become a heavy smoker and consequently develop a smoking-related disease later in life. The health consequences of smoking are associated strongly with cumulative lifetime exposure to cigarette smoke.

One tragic example: The historically lower lung cancer rates for women as compared with men are beginning to disappear as women's smoking behavior becomes more and more like that of men. For the past 5 years, lung cancer has exceeded breast cancer as the leading cause of cancer deaths in women. A case of the Virginia Slims woman catching up to the Marlboro man.

In spite of this we have good news. One promising trend that has become clearer over time is the dramatically declining use of tobacco among African-American youth. In 1976, African-American high school seniors smoked at a rate of 26 percent and whites 29

5-4

percent in 1991, about 21 percent of white and 5 percent of black high school seniors smoked. As I mentioned earlier, essentially there has been no change in smoking prevalence among white high school seniors since 1980.

There is much thoughtful speculation about the reasons for the disproportionately sharp decline in smoking among African-American teenagers. Differences in educational achievement, economic status, and cultural norms between African Americans and whites are some of the factors that have been explored.

The 1989 Teenage Attitudes and Practices Survey (TAPS) found that smoking prevalence among youth 17 to 18 years of age is substantially higher among students than among school attenders or graduates—43 percent versus 17 percent. These differences, however, were much less pronounced among African Americans than whites.

Similarly, white youths with above-average school performance are much less likely to smoke than their white peers with average or below-average performance. This difference is not significant between comparable groups of black youths. School attainment, then, does not appear to explain the disparity in multi-race smoking rates.

It has also been suggested that blacks smoke at lower rates for economic reasons, but the TAPS data show that income disparity does not account for a significant difference. Disposable income, however, does seem to be an important factor for whites who smoke.

A possible reason for the low rates of smoking among black youth is a gradual but powerful shift in the social and cultural climate of the African-American community concerning the use of tobacco. Informative and educational group interviews with black teenagers conducted by our Office on Smoking and Health indicate that smoking is less likely to be perceived as "cool" or acceptable behavior by this group. Understanding the dynamics of this shift may provide valuable insights into prevention strategies for the youth population at large.

Perhaps indicative of culturally related smoking differences between African Americans and whites are the

distinct differences reported in brand preferences between white and African-American youth in the United States. Among 12- to-18-year-olds, 71 percent of whites who buy their own cigarettes smoke Marlboro, while 61 percent of African Americans smoke Newport, a menthol brand. Camel represents the second most popular brand among white youth, while for African Americans the next most preferred brands are Kool and Salem, two other menthol brands. Brand preferences among Hispanic adolescents are similar to those among whites.

The huge market shares enjoyed by Marlboro, Camel, and Newport among youth smokers are diluted considerably among adult smokers. Brand awareness created in childhood can be the basis for product preference later in life. It has been shown that children prefer the brand they see advertised. These three brands are among the most heavily advertised cigarette brands in the United States. These brands may serve as entry-level brands in the process of smoking initiation.

I've focused on the problem of youth smoking in the United States, because I witness every day the ravages of the scourge of tobacco use in our Nation—a scourge that begins almost entirely in childhood and adolescence.

But as you are aware, there are no boundaries to the problem—smoking is trapping young people in every nation of the globe and, if unchecked, will cause eventual death, disease, and disability of unprecedented scope worldwide.

More than 200 million of the children living in the world today will be killed by tobacco. Seventy percent of these deaths will be in the developing world.

My cause for alarm is sounded clearly in the 22nd Surgeon General's report on smoking and health, which I released only 3 weeks ago. Perhaps even more so than in the United States, the problem of youth smoking in Latin America augurs poorly for the future.

The data I reported, though far from complete, suggest that more than half of the young people in some Latin American and Caribbean cities are regular

smokers, and in recent years, more and more women in the region have begun to smoke. Prevalence remains higher for young men than for young women, is higher in urban areas of the more developed countries, and increases by level of socioeconomic development. In some areas, the prevalence of smoking for adolescents is perhaps even higher than for adults. A prevalence of greater than 30 percent is reported by almost half of the surveys for young men and almost one-third of the surveys for young women.

Fortunately, in the United States the prevalence of smoking among Hispanic men and women is declining and is lower than for the general population. We cannot get complacent, however, with our current efforts to control tobacco use in any of our population segments. We must continue to be vigilant.

Recognizing that tobacco control among our youth is an urgent public health priority, the U.S. Department of Health and Human Services in our Healthy People 2000 objectives has called for reducing the rate of initiation of smoking by persons less than age 20 to no more than 15 percent.

Likewise, we would like:

1. all schools to be tobacco-free and include prevention of tobacco use within the basic curricula;
2. enactment and enforcement of bans on the sale and distribution of tobacco to minors;
3. a ban or severe restriction on tobacco advertising and promotion to which youths are likely to be exposed.

In the United States, schools are currently establishing tobacco-free environments on their premises and offering education programs aimed at preventing the onset of tobacco use.

Research has shown that such programs in schools can be effective in delaying onset of smoking by several years in 20 percent to 50 percent of participating students and that booster sessions in high school are necessary for long-term success in actual prevention of smoking.

School-based education programs about tobacco use, however, are not yet a major feature of control activities in Latin America and the Caribbean. The few evaluation studies reported, however, indicate that such programs can be effective in preventing the initiation of tobacco use, and I urge you to consider this at the local level.

There is a promising trend for tobacco control in Latin America, and this has been the increasing percentage of young people enrolled in school. In 1987, 86 percent of 6- to 11-year-olds were enrolled in school, up from 58 percent in 1960. Similarly, the percentage of 12- to 17-year-olds in school increased from 36 percent to 68 percent during the same period.

Data on smoking prevalence and educational status in Latin America are ambiguous. There is some evidence that education may have served to create demand for cigarettes rather than increase awareness of the hazards of smoking in many Latin American cities. But in most developed countries, particularly in the United States, there is a clear, powerful relationship: the higher a population group's education and academic expectations, the lower its rate of smoking.

For example, high school seniors with plans to pursue college are less than half as likely to be regular smokers as students with no college plans. And as I mentioned before, surveys suggest that high school dropouts have excessively high smoking rates. These dropouts are often from low socioeconomic backgrounds and may require different and more intensive interventions than those that have worked among youth staying in school.

Now let's talk about tobacco sales and distribution laws.

A recent survey in 10 U.S. communities indicated widespread support for policies that limit minors' access to, and use of, tobacco products. Nearly every state in the United States has enacted laws restricting the sale of tobacco products to minors; these laws, however, are rarely enforced. As a result, most youth have ready access to cigarettes. In a recent national survey, 76 percent of 8th graders and 91 percent of 10th graders said it is very easy for them to obtain cigarettes.

To curtail the availability of tobacco products among young people, the U.S. Department of Health and Human Services has proposed a model law that serves as a prototype for state legislation. The model legislation is proposed to secure and enforce laws in all states to prevent the sale of tobacco products to minors. It attempts to create workable procedures to provide retail outlets the incentive and tools to refuse to sell to minors, as already required by law in 47 states.

Among its major components, the model legislation calls for:

- establishing a licensing system to limit the sale of tobacco products to minors;
- raising the age for legal purchase of tobacco products to at least 19;
- banning the use of vending machines for the purchase of tobacco products;
- establishing a graduated schedule of penalties for violations of laws related to the sale of tobacco products to minors.

Within the past year alone, I'm pleased to report that 28 states have passed or introduced legislation that includes at least one component of the model law. The adoption and—just as importantly—the enforcement of such legislation is another part of a successful tobacco use prevention and control strategy.

In the United States, the tobacco industry spends \$3.6 billion each year on product advertising and promotion. Expenditures globally are nearly incalculable. Although cigarette companies claim that they do not intend to market to children, this argument becomes irrelevant if advertising affects what children know. And I submit, advertising's effect on youth's knowledge and awareness of cigarettes has been documented by the IAMA, the TAPS, and the COMMIT studies.

The American Medical Association and I made the news headlines last month when we called for R.J.

Reynolds Tobacco Company to voluntarily withdraw its highly successful "Old Joe" Camel campaign. We made this appeal based on a number of studies showing the apparent reach and influence of tobacco advertising on children.

One study, for example, found that 6-year-olds are as familiar with "Old Joe" as with Mickey Mouse. Another recent study showed that in some communities in America, one-fourth or more of young smokers are now buying Camels—when surveys before 1988, the year the "Old Joe" campaign began, indicated little preference for Camels among young people. The proportion of smokers under 18 who choose Camels has risen from 0.5 percent before 1988 to 32 percent by 1992—from \$6 million to \$476 million in profit.

When advertising their products using such characters as "Old Joe" Camel and the Marlboro cowboy, cigarette manufacturers promote images of youth and fun, glamour and affluence, independence, and rugged spiritedness. These messages touting peer acceptance and the social rewards of smoking doubtlessly strike a responsive chord in many young people—especially disadvantaged youth in greatest need of self-esteem. They tell me, "How could you say Old Joe is there when it is not on TV and most kids do not smoke or can't read," and I tell you, Old Joe is everywhere. In buses, in convenience stores, in caps, T-shirts, matches, frisbees, malls, and game arcades to name a few. These cigarette brands that appeal to children and teenagers are also in displays at sports and youth-oriented events.

The consistent preference of black adolescent smokers for menthol cigarettes may reflect the increased occurrence of advertisements for these brands targeted to blacks. Ads for menthol cigarettes are more likely to appear in magazines with predominantly black readerships and on billboards in black communities.

So you tell me what can we do. Well, there are a variety of practical measures that countries can consider that can reduce youths' exposure to tobacco advertising:

1. prohibiting the use of imagery in advertisements by allowing only words and a picture of the product itself to be shown;
2. prohibiting tobacco sponsorship of sporting and other events that have a substantial youth audience;
3. prohibiting tobacco advertising in publications that have a substantial teenage readership;
4. prohibiting tobacco billboards located near schools and other areas where youth congregate, such as parks and shopping malls;
5. prohibiting tobacco advertising on promotional items that appeal to children.

It is clear that the initiation of cigarette smoking is a complex process that results from many interacting influences, ranging from peer pressure; habits of adult role models such as family members, teachers, sports figures; and cigarette advertising.

What we will need are broad national, regional, and local strategies. We need to reduce conditions that contribute to tobacco use and help young people acquire the knowledge, skills, and support needed to say "no" to tobacco.

To start, an essential action each nation can take to strengthen the overall impact of its tobacco use prevention efforts is implementation of comprehensive school health education programs. Such programs must include tobacco prevention education, but importantly, they must also establish a foundation for understanding the relationships between personal behavior, social conditions, and health.

We must remember, the effectiveness of all strategies will be enhanced as young people develop decision-making and communication skills, skills that will allow them to resist persuasion and build self-efficacy and self-esteem.

Strategies should be complemented by regional and local actions and through efforts involving mass media.

I realize that there are many barriers to overcome. My government agency, the Department of Health and Human Services, has taken an outspoken stand with respect to tobacco use in all countries. At the 1990 meeting of the World Health Organization, Secretary Louis Sullivan said, "We are very much against tobacco use because of its adverse health consequences—434,000 deaths a year in our country, almost one a minute. We are supposed to help any country that requests our help in developing an anti-smoking or antitobacco campaign."

My friends, we do not need to be reminded that we are a free society and tobacco is a legal product. We need to be reminded, however, that the tobacco use problem among children will not go away on its own. We all must help and get involved. In order to do that, I ask you to set the right example, provide aggressive antismoking education with reality data—prevention through educating children and youth first. Prohibit tobacco sales to minors—and help enforce the law.

By the year 2000—severely limit or ban advertisement or promotion of tobacco products to which youth are likely to be exposed, and finally, severely limit or ban cartoons as a form of tobacco advertisement.

The challenge is great, but the stakes are greater. Failure to act decisively to control tobacco use will allow millions of our young people each year to become addicted to cigarettes and compromise the very health we have promised to protect. Friends, colleagues, let's make the children and youth of the world the most militant antismoking activists of the future. Only by doing so, we will accomplish a tobacco-free world and only then we will not fail the children.

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Tobacco Use: An American Crisis

**Final Conference Report And
Recommendations From
America's Health Community**

**Washington, DC
January 9-12, 1993**

nation's schools. Where such a program has been adopted, teachers often modify the curriculum or teach only parts of it. Moreover, teaching about tobacco frequently changes from year to year. Overall, then, school-based education about tobacco tends to be sporadic and inconsistent.

While there is growing agreement in all sectors that tobacco prevention ideally should be part of a comprehensive K-12 school health curriculum, tested anti-tobacco programs are not readily available for elementary and high school students. Moreover, relatively few schools have a comprehensive health education program as a mandated part of the curriculum. As of 1989, school health education programs were mandated in 25 States and recommended by another 9 States, but the number of school districts actually implementing planned, sequential multi-topic school health programs has not been accurately estimated.

Reflecting the influence of Federal initiatives to prevent drug and alcohol use, many schools provide some instruction about these substances, but tobacco often receives minimal attention. For example, some schools have adopted a generic model of prevention which attempts to reduce risk factors and increase protective factors related to all forms of substance, as well as other health and safety problems of youth. Widely varied activities aimed at improving school achievement and self-esteem are classified as prevention, but these activities may not address tobacco use directly or even involve classroom instruction. There is no evidence that this generic model prevents and reduces tobacco use by youth.

Community-based Prevention Activities. The NCI-funded field trials of programs to prevent and control tobacco use included several projects that coordinated school-based approaches with interventions through the media and/or community-based activities. In addition, two programs were developed for and tested in community-based youth organizations, 4-H and Little League, respectively. These programs can enhance and complement school-based prevention programs, especially when they are well coordinated. The challenges of coordination, however, should not be underestimated.

Local communities with strong anti-tobacco coalitions have developed a variety of activities for children and youth. These range from traveling puppet shows and clowns encouraging tobacco-free environments to special youth forums on tobacco. While such activities help to communicate strong community norms against tobacco use, their effects on youthful behavior have not been evaluated. Some observers note that many of these activities are only one-time events that involve limited numbers of youth, most of whom are not at high risk for tobacco use.

Youth Smoking Cessation Programs. Few tobacco use cessation programs have been designed especially for youth, and of these, very few have proven effective. These latter programs tend to combine several individual or group counseling sessions with media, take-home materials, and telephone follow-ups. Resource requirements have inhibited widespread dissemination. Few schools or other organizations serving youth offer on-site cessa-

tion programs, and frequently staff members do not know how to refer youngsters who use tobacco to cessation programs in the community. The effectiveness of adult cessation programs for youth has not been evaluated.

Parent Education. Some tobacco use prevention programs have attempted to involve parents by informing them about the program, encouraging family television viewing of anti-tobacco interventions, and assigning homework that requires parent participation. Materials also have been developed to help parents and other care-givers instill strong anti-tobacco attitudes in children while they are very young. Although some parents are receptive, participation, at best, is uneven. Parents who use tobacco have been most difficult to reach.

Limiting Youth Access to Tobacco

Sales of tobacco generate huge profits for the tobacco industry, some of which are from illegal sales to minors. Such illegal sales—about 947 million packs of cigarettes and 26 million containers of chewing tobacco in 1988—total \$1.45 billion in sales and generate more than \$221 million of industry profits (3 percent of total profits). Retailers also profit an undetermined amount from these sales. Study after study has illustrated that minors have little trouble obtaining tobacco from generally any location where they attempt to buy it. Access is not concentrated in certain types or stores, or in certain parts of the country, or at particular times of the day. Overall, minors trying to buy tobacco are typically successful in purchasing it over-the-counter 50-75 percent of the time and from vending machines 80-100 percent of the time.

If parents, government officials, and health professionals are to succeed in convincing children and teenagers not to use tobacco, it cannot be sold as if it were milk or candy.

Although most states (n=46) and the District of Columbia have laws regulating tobacco sales to minors, they are rarely enforced. A review of those states with laws found that five had nominal restrictions (e.g., laws banning sales below a minimum age), 38 had basic restrictions (e.g., laws banning sales to teenagers under age 18, fines for the sales or distribution of tobacco to minors), four had moderate restrictions (e.g., the basic restrictions plus warning signs at point of purchase, state issued retail tobacco license, and a provision for license suspension or revocation when sales to minors are made), and no state had comprehensive regulations (e.g., moderate regulations plus a ban on free distribution of tobacco and coupons, use of license fees for enforcement, vending machine restriction or ban, absence of a preemptive clause, and allowance for compliance checks/stings at the local level).

A 1989 random digit dial population survey of 3,654 persons aged 25-64 in the 10 Community Intervention Trial for Smoking Cessation (COMMIT) cities illustrates the public strongly supports regulating minors' access to tobacco. Across the ten COMMIT cities, the percent of respondents agreeing to various policy states was as follows: tobacco products should be as strictly controlled as alcohol products (70 percent); merchants who sell tobacco to

minors should be fined (88 percent); and cigarette vending machines should be eliminated in places where teens gather (84 percent).

Most people now agree that merchant education is a necessary but not sufficient intervention to reduce over-the-counter tobacco sales to minors. Accessibility to cigarette vending machines is best prevented through eliminating these machines entirely. A less desirable but acceptable solution is to limit machines to bars.

Interventions that include active enforcement of access laws (eg, "stings" that result in citations of violators) and restrictions limiting access and availability (eg, bans on vending machines, restrictions on how over-the-counter sales are made) are needed for sustained reductions in minors' access to tobacco. These types of interventions require that public health professionals work in the political arena, an area in which many lack experience or expertise.

Administration of a tobacco vendor's license is another effective method for monitoring tobacco sales activity and for funding increased enforcement of laws. Consensus is that citations for illegal sales are most appropriately handled through civil rather than criminal courts. There has been considerable debate about the efficacy and desirability of laws that prohibit possession of tobacco by minors. Prime concerns are that making the possession of tobacco illegal may increase underground sales activity, enhance the attractiveness of tobacco use to youth who rebel against authority, and deflect attention away from the retailers who illegally sell tobacco to minors and from the industry that promotes tobacco use to youth.

Interventions to Reduce the Advertising and Promotion of Tobacco

Warning Labels. The first of a series of Congressional statutes requiring warning labels on tobacco products and advertisements became effective in 1966. Congressional legislation passed in 1984 and 1986 now requires rotating health warning labels on all cigarette and smokeless tobacco packages and advertisements in the US. The effectiveness of these warnings has been difficult to establish, but research indicates that they their design neither draws attention nor encourages reading. One study of 61 adolescents found that 20 percent looked at warnings in magazine ads but did not read them, while 40 percent did not look at the warnings at all.

Efforts have been unsuccessful over a period of two decades to require disclosure of tobacco product and tobacco smoke constituents on packages and in advertising. Some cigarette manufacturers voluntarily disclose levels of selected constituents, such as tar and nicotine. Limited evidence suggests that information about the hazardous substances in tobacco may influence some adults to change brands, but the effects of such knowledge on children and youth are unknown. Because there is no known safe level of tobacco product consumption, disclosure of the constituents in tobacco is valuable only to the extent that this contributes to the prevention and cessation of product use.

Restrictions on Advertising. In response to anti-smoking public service announcements aired under the Fairness Doctrine between 1968 and 1970, the tobacco industry supported legislation banning cigarette advertising on television and radio, effective in 1971. In 1973 and 1986, this ban was extended to the broadcast advertising of little cigars and smokeless tobacco products, respectively. Nevertheless, tobacco billboards prominently displayed near scoreboards in sports arenas and industry sponsorship of sporting events assure that tobacco logos are frequently aired on television. These images associate tobacco with athletic prowess, health, and excitement. Televised sporting events draw large youth audiences.

The Federal Trade Commission has attempted to regulate false and misleading advertisements about tobacco, but despite some limited success, the regulatory process has been slow. Effects of these efforts on tobacco use behavior have been difficult to determine. Many proposals have been advanced to increase restrictions on the advertising and promotion of tobacco. Some would place tighter controls on the imagery and content of advertising either by developing and enforcing a stricter code or by permitting only "tombstone" advertising with no models, slogans, scenes, or colors. Other policy proposals would eliminate tobacco advertising and promotion as a tax deduction, prohibit advertising in certain media, prohibit certain promotional techniques, ban advertising and promotion accessible to children, or ban advertising and promotion of tobacco products completely. In 1988, Canada enacted a total ban which is now becoming effective in stages.

The Public Health Cigarette Smoking Act of 1969 (PL 91-222) preempts regulation of cigarette advertising by States and "any political division thereof", but the Comprehensive Smokeless Tobacco Health Education Act of 1986 (PL 99-252) does not preempt State and local regulation of smokeless tobacco advertising. Several states and local jurisdictions have banned tobacco advertising on public transit systems and the distribution of free cigarette samples. These local policies have not been challenged in court, but again their effects on tobacco use are unknown. At the very least, they may communicate the important message that tobacco use is not socially acceptable.

Counter-advertising. Because the anti-tobacco public service announcements broadcast in 1967-1970 apparently helped to neutralize tobacco advertising, the establishment of a continuous Government anti-tobacco campaign has been proposed. Taxing some portion of cigarette companies' advertising and promotion budget or earmarking a portion of the Federal cigarette excise tax have been identified as possible sources of funding to support such a campaign. Although these proposals have not progressed in Congress, several States have implemented aggressive tobacco counter-advertising media campaigns supported by increased State taxation on tobacco.

Certain activist organizations have been highly creative in counter-advertising against tobacco. For example, members of Doctors Ought to Care (DOC), dressed in white coats, make "house calls" at local events sponsored by the tobacco industry. Stop Teenage

NEWS FROM
THE ROBERT WOOD JOHNSON FOUNDATION

Embargoed until: February 1, 1995

Contact: Cindy Drucker
Peggy Barresi
Cone/Coughlin Communications
617-227-2111

NATION'S FIRST SURVEY RELEASED FOCUSING ON
YOUTH ACCESS TO TOBACCO

Broad Majority Supports Extensive Actions To Protect Children
From Becoming Smokers

PRINCETON, NEW JERSEY FEBRUARY 1, 1995 – A surprising result was found in a new national study released today to determine public attitudes towards limiting children's access to tobacco. The Robert Wood Johnson Foundation *Youth Access to Tobacco* survey revealed a wide base of support by adults for specific actions to make tobacco less accessible to children and to restrict advertising promotions that may encourage them to light up. The broad range of support cuts across age, sex, ethnicity, ideology, party and geographic region, a finding that researchers say is noteworthy given the political shift in the last election.

Mathematica Policy Research conducted the survey of 2,345 adults in October and November for The Robert Wood Johnson Foundation, the country's largest private grant maker in the health field.

The RWJF survey comes at a time when health experts are concerned that unlike the drop in smoking among adults, the number of teen smokers is stubbornly steady, and they are starting to smoke at ever younger ages. The average teen smoker starts at 13 and becomes a daily smoker by age 14-and-a-half. It has been estimated that minors smoke over 500 million packs of cigarettes a year with at least half of those packs acquired illegally.

5-12

While the survey showed broadbased support for certain measures to reduce children's access to tobacco, researchers found that support for other measures was more varied:

- Limiting tobacco sales to certain kinds of retailers, as with alcohol (46%)
- Banning tobacco advertising in newspapers and magazines (51%)
- Prohibiting tobacco companies from sponsoring sports or entertainment events featuring their brand names (55%)
- Prohibiting tobacco companies from showing their products in movies and videos (60%)

Kaufman pointed out, "A broad cross-section of Americans agree that it makes sense to do more to keep tobacco out of the hands of children. As a foundation investing in the health of children, it's clear to us that most 13-year-olds just aren't prepared to handle the pressures that lead many of them to smoke, a decision that can haunt them for life. Indeed, we know that 80% of the children who smoke have tried to quit, yet only 1.2% succeed. We trust that policy makers, health officials and communities will carefully review our findings as they consider future policy options."

The Robert Wood Johnson Foundation is the nation's fourth largest philanthropy and has supported research and innovations in health for over 20 years. During that period, the foundation has made more than \$1.6 billion in grants devoted exclusively to improving the health and health care of Americans.

Founded in 1968, Mathematica Policy Research, Inc. (MPR) is one of the few research institutions in the country to combine comprehensive research and data collection capabilities with expertise in addressing the nation's social policy agenda. Each year MPR conducts dozens of large-scale surveys designed to meet rigorous statistical standards and to provide important data to decision makers in the public and private sectors.

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Survey Summary/2

Youth Access Policies

- Although the sale of tobacco products to minors is illegal, 68% of adults believe it is very or somewhat easy for kids to buy tobacco products.
- Young adults (18 to 24 years), who may have a more realistic perception of this problem, are even more likely (81%) to believe it is easy for minors to buy tobacco products.
- 94% of adults favor requiring proof of age when purchasing tobacco products.

For the purpose of reducing youth access to tobacco products, the majority of adults support banning the following:

- All cigarette vending machines (74%)
- Cigarette vending machines accessible to kids (91%)
- Self-service displays in stores (78%)

Tobacco Advertising and Promotion

The majority of adults support banning the following types of tobacco promotions:

- Distribution of free cigarettes on public streets (88%)
- Sale of single cigarettes (82%)
- Coupon promotions to obtain free cigarettes by mail (81%)
- Coupon promotions to obtain branded clothing and accessories (70%)
- 73% believe that tombstone advertising (without pictures or cartoons) would make smoking less appealing to children.

Proposals to Regulate Tobacco and Assist with Smoking Cessation

- The overwhelming majority of adults (92%), including current smokers who do not plan to quit (85%), believe nicotine is addictive.

The majority of adults support actions to regulate tobacco and aid smoking cessation:

- Support requiring tobacco companies to list additives on package labels (93%).
- Support extending government regulation of nicotine products, such as nicotine patches and nicotine gum, to cigarettes (71%).
- Support policies requiring tobacco companies to reduce the amount of nicotine in cigarettes (79%).
- Want insurance companies to cover the cost of smoking cessation programs (65%).

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State of Kansas

Office of the Attorney General

301 S.W. 10TH AVENUE, TOPEKA 66612-1597

CARLA J. STOVALL
ATTORNEY GENERAL

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STATEMENT OF
DEPUTY ATTORNEY GENERAL DAVID B. DEBENHAM
BEFORE THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
RE: HOUSE BILL 2544
JANUARY 30, 1996

Dear Chairperson Lana Oleen and Members of the Committee

I appear before you today on behalf of Attorney General Carla J. Stovall, to ask for your support of House Bill 2544. Among other things this bill would prohibit not only the selling of cigarettes or tobacco products to individuals under the age of 18 years and their purchase by individuals under the age of 18 but would also prohibit furnishing or distributing these products to individuals under 18 as well as the possession or attempt to possess these products by individuals under 18 years of age.

Even though state law currently prohibits the sale of cigarettes and tobacco products to underage customers, child tobacco use in Kansas has increased. We must do what we can to reduce the use of cigarettes and tobacco by our young people and House Bill 2544 will help us reach that goal.

In December, 1994, former Attorney General Bob Stephan joined the attorneys general of 25 other states in releasing a report on smoking and minors. The report documented the frequency and apparent ease with which underage youths purchase tobacco products, the positive steps retailers can take to prevent the sale of cigarettes and other tobacco products to minors, and the positive initiatives states can pursue to encourage responsible retailing to help control sales to teens.

According to this report "ninety percent of smokers reported that they began smoking as teenagers. The average age at which teenage smokers first begin smoking is thirteen to fourteen years, and by age eighteen, teens are smoking at a rate very near the adult rate. Unlike adolescent use of alcohol and other drugs, adolescent smoking has not declined since the early 1980's, and some statistics show an increase in underage smoking. In 1990, nineteen percent of high school seniors smoked daily, and twenty-nine percent had smoked in the last month."

*Attachment
Exhibit 6
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These statistics illustrate that our young people have access to cigarettes and tobacco. Only by preventing this type of easy access can we hope to decrease the chances that our children will become addicted to cigarettes and tobacco. By supporting H.B. 2544, you will be making it tougher for our youth to get started smoking.

Attorney General Stovall has recently joined 26 other Attorneys General from around the country in support of the Food and Drug Administration's proposed tobacco product regulations in Docket #95NO253. Among the proposed regulations are sections restricting the advertising and marketing of tobacco products to children, restricting tobacco sponsorship of sporting and entertainment events, prohibiting the sale or distribution of all non-tobacco items that are identified with a tobacco product brand name, prohibiting sale of single cigarettes, sale by vending machines, self-service displays and free samples of tobacco products. The Food and Drug Administration's proposed regulations would not preempt more stringent state or local requirements relating to the sale, distribution, advertising or use of tobacco products.

On behalf of the Attorney General, I urge your favorable consideration of House Bill 2544.

6-2

HB 2544 CIGARETTE AND TOBACCO PRODUCTS REGULATION AND TAXATION ENFORCEMENT

Senator Oleen and members of the Senate Committee on Federal and State Affairs, my name is Ben Scott, Sr., and I am here today representing the Topeka Board of Education and the administration of Topeka Unified School District 501. I am a proponent for HB 2544.

As members of school boards across Kansas, we have the best interests of children on our minds every single day. We strive to do what is best for their educational as well as emotional, mental, and physical well being. I personally fought to implement a policy to restrict smoking in all Topeka Public Schools and on school grounds this year because of the devastating effects tobacco can have on the health of our young people. However, I still see our young people gathering at places adjacent to school property before school, during lunch break, and after school in order to feed their nicotine addiction. At this time, there is nothing I can do to prevent this--but you can.

As a school board member, I welcome the opportunity to assist in promoting tobacco free policies by supporting this law once enacted. I pledge my support to work with school board members throughout the state to assist them in implementing policies complimentary to this legislation.

In a recently released report from the Centers for Disease Control and Prevention, *State Tobacco Control Highlights--1996*, there are profiles of smoking in all 50 states and the District of Columbia. This report confirms the alarming rate of tobacco use among youth, finding that upwards of 30 percent of youth smoked, and a University of Michigan report released last month shows that smoking among teens has increased to the highest level in 16 years. Since nearly all adult smokers of today began smoking as children, I can hardly imagine how many of our youth that smoke today will face the deadly effects of smoking as they reach maturity.

For the well being of our children, I ask that you strengthen controls to reduce their access to tobacco products. You can do this by voting in favor of HB 2544, which enforces the current statute prohibiting sales to minors, makes it illegal for minors to possess tobacco products, allows for the confiscation of such products from minors, and sets up a fund for enforcement efforts.

Thank you.

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1/30/96

*Attachment
Exhibit 67
Federal and State Affairs
1/30/96*

Senator Oleen and members of the Senate Committee on Federal and State Affairs, my name is Emily Broxterman and I am the Kansas Youth Ambassador for the Smoke Free Class of 2000. I am a proponent for HB 2544. There are several issues I would like to talk about. First of all, tobacco products are too easily accessible to minors. Any person under the age of 18 can walk up to a store counter and purchase cigarettes without having to show I.D. or even be questioned their age. Cashiers do not care who buys the product, as long as they can make a sale. Vending machines also require no I.D. to make a purchase. I experienced this personally while visiting Washington D.C. as the ambassador from Kansas for the Smoke Free Class of 2000. Several other teens and I bought cigarettes at the Hard Rock Café and even at the nation's Capitol Building, where 16 people passed, including two security guards. It happened in Washington and it could happen here.

Smoking is becoming more and more frequent in schools. Many of my classmates smoke. They do it to be cool. They do not care what it does to their bodies. Even though they have listened to the dangers of smoking since elementary school, teens still want to rebel. If tobacco access is limited, most of these teens will stop smoking.

I am 13 years old, the prime age for smoking to start. There are teens that I have known since kindergarten that I now watch destroy their lives by smoking. If teens waited until they were 18 years old, the legal age to smoke, most will never start using tobacco. Nearly all first use of tobacco occurs before the age of 18.

As I mentioned earlier, 13 and 14 year olds are the prime ages to start smoking. They are the most vulnerable to different influences. The tobacco industries know that if they can get young teens to smoke, they will basically have them hooked for the rest of lives. I feel we are being taken advantage of. We are like string puppets. The tobacco industry is controlling us.

This is the time where the government should step in and take action. We are regulated for everything like food, alcohol, drugs, and education, to insure our safety and good health. These regulations are monitored and enforced. Why don't we regulate tobacco? Smoking is the only drug on the market that is guaranteed to kill if used as directed. It is the number one preventable cause of death in America. Why don't we take action and change these statistics around. It is up to you!

I am in support of HB 2544 because it will limit youth access to tobacco products, and it will also enforce the law. It has been illegal for kids to purchase tobacco products since 1967. Without any attempt to enforce the law, this teen problem is out of control. On behalf of all teens, please stop the tobacco from destroying our lives and pass HB 2544. Thank you.

*Attachment
Exhibit 8
Federal and State Affairs
1/30/96*

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Good morning. My name is Doug Wright. I appear before you on behalf of the American Lung Association of Kansas which I serve as President Elect, a member of the board, and chair of the Government Affairs Committee. I appear today in support of HB 2544. Although there are currently laws in the State of Kansas that make it unlawful for retailers to sell cigarettes and tobacco products to our children under 18 years of age, the law needs to be strengthened by the proposal set forth in HB 2544. The facts are that everyday another 3000 American young people become regular smokers. In 1991, 28% of America's high school seniors smoked; by 1993, this had increased to 30%. In Kansas, 33% of our high school students smoke.

The public health implications of this trend of more and greater nicotine addiction among our young people is significant. The Food and Drug Administration reports that each year more than 400,000 Americans die from smoking and smoking-related illnesses. Smoking kills more people than AIDS, car accidents, alcohol, homicides, illegal drugs, suicides, and fires combined. Clearly, we need to do everything we can to keep our young people from becoming addicted to nicotine.

Attachment
Exhibit 9
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Young people who choose to smoke cigarettes or use smokeless tobacco have easy access to these products. They are among the most widely available consumer products in the United States, sold in virtually every gas station, convenience store, drug store and grocery store. In addition, young smokers can buy their cigarettes from vending machines. The 1994 Surgeon General's report examined nine studies on vending machine sales and found that underage persons were able to buy cigarettes 82 to 100% of the time. A drastic change is needed to reduce the access our young people have to tobacco products. HB 2544 represents the type of change that is needed in Kansas.

The American Lung Association of Kansas urges its adoption.

JANUARY 30, 1996

MADAM CHAIR AND MEMBERS OF THE COMMITTEE:

I AM BRYAN BEAVER, I RESIDE AT 14042 GRANDVIEW OVERLAND PARK. I AM EMPLOYED BY CARTER PETROLEUM OF KANSAS CITY. OUR COMPANY OWNS AND OPERATES CONVENIENCE STORES. IN ADDITION, I AM CHAIR OF THE LEGISLATIVE AFFAIRS COMMITTEE AND REPRESENT THE KANSAS OIL MARKETERS/CONVENIENCE STORE ASSOCIATION OF KANSAS.

WE ARE HERE TODAY TO URGE YOU TO SUPPORT H.B. 2544!

THIS BILL CONTAINS LANGUAGE WE BELIEVE TO BE CONSIDERED FAIR AND EQUITABLE TO RETAILERS OF TOBACCO PRODUCTS. NAMELY SEC. 8, PARA (b).

WHILE MANY CONVENIENCE STORE OWNERS LIKE OUR COMPANY BAN CIGARETTE SMOKING IN OUR OWN STORES, THE DEMAND TO OFFER THEM FOR SALE TO THE ADULT GENERAL PUBLIC REMAINS STRONG. CIGARETTE SALES CONTINUE TO BE ONE OF THE LEADING SALES CATEGORIES IN OUR INDUSTRY.

OUR INDUSTRY HAS RESPONDED IN A VERY AGGRESSIVE MANNER REGARDING THE SALE OF CIGARETTES TO MINORS. OUR TRADE ASSOCIATIONS HAVE HELD EDUCATIONAL SEMINARS IN EACH STATE, IN RECENT YEARS, TO EDUCATE RETAILERS ON THE NEED TO I.D. PERSONS ATTEMPTING TO PURCHASE CIGARETTES. THE SEMINARS IN KANSAS HAVE BEEN WELL ATTENDED.

I HAVE BROUGHT AN EXAMPLE OF THE PROGRAM OUR TRADE ASSOCIATION MAKES AVAILABLE TO OUR MEMBERS TO EDUCATE THEIR EMPLOYEES ON HOW TO RETAIL TOBACCO PRODUCTS IN A RESPONSIBLE MANNER. THERE IS A TRAINING VIDEO THAT ACCOMPANIES THESE VISUAL REMINDERS. THE PROGRAM INCLUDES:

- ◊ TRAINING VIDEO
- ◊ REGISTER SIGNS
- ◊ LAPEL BUTTONS
- ◊ WINDOW SIGNS
- ◊ COOLER DOOR SIGNS
- ◊ BAG STUFFERS
- ◊ DOOR DECALS
- ◊ EMPLOYEE'S AGREEMENT OF UNDERSTANDING

THESE MATERIALS ARE FREE OF CHARGE FROM "THE TOBACCO INSTITUTE". IN THE EVENT ANY OF YOU VISIT A STORE REGULARLY AND DON'T SEE THIS MATERIAL, I URGE YOU TO ASK THE RETAILER TO CONTACT THE KANSAS OIL MARKETERS ASSOCIATION, WE WILL PROVIDE IT FOR THEM.

*Attachment
Exhibit 10
Federal and State Affairs
1/30/96*

WHILE WE REALIZE ANY SYSTEM IS NOT FOOL PROOF, USING ONE AND TRAINING OUR PEOPLE TO USE ONE, SHOULD BE RECOGNIZED AS RESPONSIBLE RETAILING. WE SHOULD NOT BE LIABLE FOR CIVIL OR CRIMINAL PENALTIES, IF WE'VE DONE OUR PART.

THANK YOU FOR YOUR TIME TODAY AND I WOULD BE HAPPY TO ANSWER ANY QUESTIONS THE COMMITTEE MAY HAVE.

10-2

HOUSE BILL 2544

CIGARETTE AND TOBACCO PRODUCTS REGULATION AND TAXATION ENFORCED

SENATOR OLEEN AND MEMBERS OF THE SENATE STATE AND
FEDERAL AFFAIRS COMMITTEE:

I am Chaniqua, a Junction City High School student, representing Geary County Project Freedom. I want to address youth access to tobacco products.

A couple of years ago, I felt that being the oldest of four girls was purely my bad luck. However, since then, I came to the realization that luck has nothing to do with my life. Being the oldest was an "opportunity". An opportunity to be in charge, give orders, and lead by example. Part of my revelation came when I realized that my little sisters mimicked everything I did. They liked the songs I liked, the boys I liked, hated everything and everyone that I labeled as "unkool". That's when I recognized what an impact I was having on their lives. That's why I'm a smoke-free teen. If I smoked (and my Mom didn't kill me first) I know eventually my little sisters would too.

Tobacco is known as the gateway drug. That means it is often the first drug used by my peers before they use alcohol, marijuana, and other drugs. My peers know which stores don't check IDs. We know where cigarette vending machines are. The stores aren't enforcing the law - that's why the laws have to become stricter! I'm here not just for me, but for the three little faces who believe I'm "kool"!

Passing House Bill 2544 is a step in the right direction by restricting youth access to tobacco.

*Attachment 11
Exhibit 12
Federal and State Affairs
1/30/96*

HOUSE BILL 2544

CIGARETTE AND TOBACCO PRODUCTS REGULATION AND TAXATION ENFORCED

SENATOR OLEEN AND MEMBERS OF THE SENATE STATE AND
FEDERAL AFFAIRS COMMITTEE:

I am Stacy, a Junction City High School student, representing Geary County Project Freedom. I want to address youth access to tobacco products.

In January of this year, my grandfather died of lung cancer. His life validates the current Kansas tobacco statistics. You see, he started smoking cigarettes in his teenage years. I don't think he knew what he was doing back then . . . because if he knew back then what I know now about the consequences of nicotine, I believe he would have never started such a deadly habit. I feel confident that he would not make the same mistake because he always said he wanted to see me graduate from high school, but he won't be there when I graduate in May.

Please act to safeguard youth by restricting their access to tobacco products.

*Attachment 12
Exhibit 13
Federal and State Affairs
1/30/96*