

Physicians for a Smoke Free Canada



Saskatchewan Bans Retail Cigarette Displays

Manitoba to follow suit

Once again, provincial governments are taking the lead in public health measures. Both Saskatchewan and Manitoba are breaking new ground by moving to end retail promotions of tobacco.

Saskatchewan's legislation, passed in 2001, came into effect in March this year. As well as tightening up the sales-to-minors legislation, the law bans smoking in places where children may be present, and sets some restrictions on smoking in bars, casinos and other adult venues. The most innovative element of the legislation is the ban on the display of cigarettes in stores where children are allowed.

The Saskatchewan law is being challenged by the tobacco companies, and hearings on the case began in June this year. No ruling had been made at the time of writing.

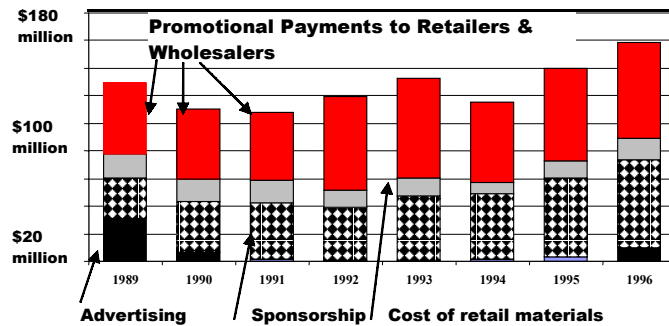
Manitoba recently introduced legislation which also bans displays of cigarettes in stores where children are al-

lowed. The Manitoba law, if passed, will come into effect in January, 2004.

Tobacco companies spend more on retail promotions of cigarettes than any other kind of advertising. Recent court documents revealed that they spend \$70 million each year to rent shelf and display space in retail outlets across Canada. This exceeds the amount spent on traditional advertising, even before federal restrictions were reimposed in 1997. While more recent figures are not available, industry reports suggest that payments to retailers remain the highest promotional costs for these companies.

The federal government introduced a discussion paper in early 1999, proposing to restrict (but not ban) the display of cigarettes in stores. No further action was ever taken by Health Canada.

These recent provincial initiatives may make it easier for Health Canada to introduce nation-wide measures.



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This year to date...

2002

This spring saw a flurry of cigarette tax increases—with the price of cigarettes going up in almost every jurisdiction. Independent of any other public measures, these price increases should result in significant public health gains. Tax increases were not the only important events in tobacco control, however ...

January

Hearings begin in Montreal for the tobacco companies' court challenge of the federal Tobacco Act. Almost 5 years passed between the launch of the court action and the opening day of the trial.

Health Canada releases new prevalence rates for smoking — they are the lowest in decades. 23% of Canadians smoke-down from 27% only 5 years previously.

Winnipeg's smoking by-law comes into effect. Smoking is banned in places where children are allowed. Some donut shops choose to stay smoky and tell kids to "keep-out."

The Canadian Cancer Society releases a study showing benefits of the new cigarette warnings. They find the warnings resulted in:

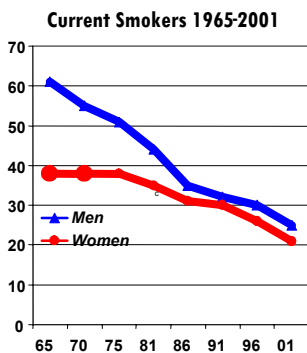
- ▶ 43% of smokers being more concerned health effects of smoking
- ▶ 44% of smokers saying they have increased their motivation to quit
- ▶ 38% of smokers saying the warnings helped motivate them to try to quit at least once.

- ▶ 21% of smokers saying they were tempted to have a cigarette but decided not to because of the new warnings

February

British Columbia raises cigarette taxes by \$8 a carton.

Ontario and Canadian Medical Associations review tobacco industry youth programs (like Operation ID and Wise Decisions) and find them ineffective at reducing smoking. The OMA and CMA conclude that these programs often entice kids to smoke by emphasizing the adults-only status of tobacco use. The



medical associations ask the tobacco companies to end the programs.

Health Canada runs anti-smoking advertisements during the Olympic games, featuring skaters Elvis Stojko and Joséé Chouinard.

March

Alberta announces a \$11.7 million tobacco control strategy. Cigarette taxes increase by \$18 per carton.

Thanks to Saskatchewan's Tobacco Control Act, retailers in stores where children are allowed begin to store their cigarettes out of sight. "Keeping tobacco and tobacco-related products out of public view is one way of communicating to Saskatchewan's young people that tobacco use is not a normal behaviour," states the law. Phooey, states Rothmans, Benson & Hedges—which promptly challenged Saskatchewan's new law in Court.

Saskatchewan announces a \$14 per carton increase on cigarette taxes.

Prince Edward Island increases cigarette taxes by \$5 per carton.

Ontario farmers reject Imperial Tobacco's bid to disband the Ontario Flue Cured Tobacco Growers Marketing Board in favour of direct contracts with farmers.

Health Canada runs television advertisements highlighting the dangers of smoking around children.

April

Manitoba increases cigarette taxes by \$11 a carton.

Nova Scotia increases cigarette taxes by \$5 a carton.

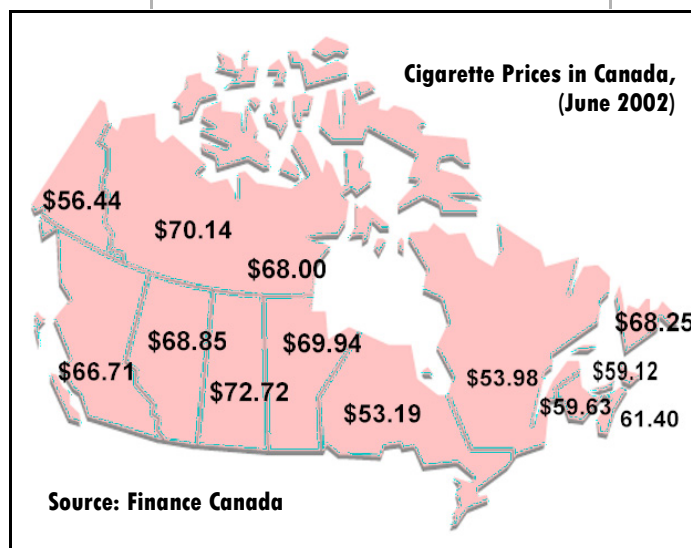
North West Territories increases cigarette taxes by \$6 a carton.

PSC launches Operation Deady Teddy and calls on tobacco companies to take steps to reduce infant deaths from cigarette exposure.

May

Ottawa's tough non-smoking bylaw is upheld by the court of appeal — which didn't even need to hear Ottawa's defense before ruling in favour of the by-law.

Brandon city council adopts an anti-smoking bylaw banning people from lighting



up in all public places, including bars and restaurants. Restrictions come into effect on September 1.

The long-awaited, much-delayed and ultimately watered-down B.C.'s Workers' Compensation Board (WCB) smoking regulations come into force. Restaurants, pubs and entertainment establishments must either go non-smoking or open ventilated, self-contained smoking rooms, in which employees may spend no more than 20% of their shift.

May 31: World No Tobacco Day

World Health Organization suggests smoke-free sports as a theme for the year. In Canada, federal observances are significantly scaled back in comparison with previous years. The new Health Minister, Anne McLennan, does not use the occasion to break her four-month silence on tobacco issues.



June

Nova Scotia enacts measures to restrict smoking to separately ventilated rooms in public places (bars and casinos are exempt even from these restrictions after 9:00 p. m.)

Ontario and Quebec raise cigarette taxes by \$5/carton.

The federal government raises taxes by \$3.50 a carton.

Manitoba introduces legislation to ban retail displays of cigarettes.

Operation "Deady Teddy"

Doctors Ask Big Tobacco to Stop Killing Babies.

In April, PSC launched "Operation Deady Teddy" as part of an ongoing campaign to hold tobacco companies responsible for the harm caused by their actions.

Our message to big tobacco: take the necessary steps to reduce the number of babies killed by their products.

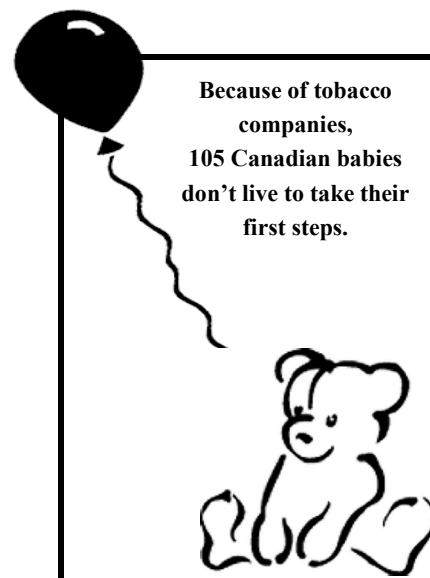
Tobacco industry products are responsible for one in twenty infant deaths in Canada. Health Canada estimates that of the roughly 2,000 infant deaths every year in Canada, 105 are the result of babies' exposure to cigarette smoke. These include deaths caused by Sudden Infant Death syndrome (17 baby boys and 13 baby girls), respiratory diseases (28 baby boys and 15 baby girls) and low birth-weight (18 baby boys 14 baby girls).

This number represents more than twice as many babies as are killed by unintentional injuries, like car accidents, drowning or fires.

PSC used soft toys to send a hard message to Canada's three large tobacco companies. Each of the companies was sent a basket balloon-a-gram containing one black-balloon bearing teddy bear for each infant death attributable to its products. Imperial Tobacco received 67 balloons and bears; Rothmans, Benson & Hedges received 22, and JTI-Macdonald received 16.

June (cont'd)

The World Health Organization cancer agency issues a new review, saying that "second hand smoke is carcinogenic to humans." Four years ago, a previous study by the



In a letter to the companies, PSC called on each executive to:

- **admit that their products kill non-smoking Canadians, including babies.**
- **establish measures to reduce the number of babies killed by their products**
- **apologize to the families who have suffered the loss of an infant which may have been attributable to the use of their products.**

None of the companies has responded (although one replied to say that this was the government's problem, not theirs).

Symbolic action can only be a first step: PSC is now reviewing real measures which can be deployed to ensure the companies meet their responsibilities to reduce the number of children killed by cigarettes.

International Agency for Research on Cancer (IARC) was mischaracterized by tobacco industry public relations actions as showing "no evidence" of second-hand smoke injury.

Shadows fall on 'light' regulations

Plans to end misleading descriptors on cigarettes now in doubt

Over a year ago the former Minister of Health did an unusual thing. He ignored the advice of his department and tried to use his authority as Minister to set Canada's health policy. On World No Tobacco Day 2001, Alan Rock announced his intention to increase consumer health rights and to decrease the marketing freedoms of tobacco companies.

In newspaper ads, interviews and speeches, Mr. Rock issued a challenge to Canada's big three tobacco companies, asking them to voluntarily "end the deception" of light and mild cigarette brands. He issued a separate challenge to his own reluctant department, asking his officials to come up with a plan to respond should the companies fail to promptly voluntarily comply. Officials were challenged to complete their task within 100 days.

This initiative was 25 years in the waiting. Since the mid 1970s, tobacco companies have been marketing so-called light cigarettes to mollify the legitimate fears of smokers. In Canada the marketing was subtle, but the message was clear: 'Don't like smoking? Don't feel able to quit? Afraid to start? Then try lights.'

Smokers weren't the only ones who were fooled into thinking that there was some meaning to the levels of smoke inhaled by a smoking machine and the amount they might actually inhale from a cigarette. Health agencies and governments had also mistakenly be-

lieved that these cigarettes were less harmful, and actually promoted them. Health Canada even asked the companies to hurry up the introduction of these brands.

It didn't take long for suspicion to set in. It turned out that smokers didn't actually smoke like machines. The way they inhaled smoke varied widely and, it was observed, the amount they inhaled was more a function of how much nicotine their body craved than what type of cigarette they smoked. By the mid 1980s, this ability of smokers to 'compensate' for low tar brands by smoking differently was well enough documented to cause health agencies to step off the 'lights' bandwagon.

The Canadian government was slower to react. Although Health Canada stopped asking for 'light' brands, they did nothing in the following years to

curb the use of the marketing descriptors. Standards were set for the use of 'light' on other products, like food and beer, but tobacco companies were allowed to use such terms without constraint.

Health Canada's inaction became less excusable at the beginning of this decade, after millions of pages of tobacco industry documents were released. The documents showed how deliberately these products were marketed to keep the 'dissonant' smoker (one who wants to quit) in the market. The documents also showed that the term was purely a marketing device: Canadian cigarettes sold as 'lights' in one brand name were identical in some instances to cigarettes sold as 'regular' under another label.

By the time that Alan Rock issued his challenges, the case against light cigarettes was clearly established. Health

Canada's own surveys showed that over a million smokers had been fooled into thinking that light cigarettes were healthier. With similar experience, other countries (Brazil and the European Union) were moving ahead to ban the use of such misleading terms. The World Health Organization was leading talks towards a tobacco treaty in which a global ban on the use of such terms was proposed.

Evidence builds ...

A year later, the case is even stronger. Two scientific panels (one convened by Health Canada's Ministerial Advisory Council on tobacco, the other the U.S. National Cancer Institute) con-



Tobacco companies are systematically introducing colour coding to replace newly-banned descriptors. Red is regular; blue is 'light' and silver is used to describe ultra-light brands. Players Silver is the first such brand to be introduced in Canada.

The air from the ventilation holes may make the cigarettes feel cooler to smoke, but there is no evidence that they are less harmful.

PSC is pushing for a ban on all misleading terms or images — including such colour

cluded that such marketing deceived smokers, and harmed public health by reducing the number of people who quit. Evidence in Canadian courts this spring showed that tobacco companies go beyond terms like 'light' and 'mild' to create artificial differences between their brands, and that it's often the packaging, not the cigarette itself, that creates misleading impressions about whether one cigarette is less harmful than another.

Despite this, nearly two-thirds of Canadian smokers puff away on 'light' or 'mild' brands, and over a million of them believe these cigarettes to be less harmful. In April, a U.S. jury found Philip Morris guilty of fraud for marketing light cigarettes, and awarded the sole victim punitive and other damages of US\$150 million.

But not government enthusiasm ...

The case may be stronger, but the commitment to do something appears to be waning.

In December the government proposed a completely ineffective half-way measure, proposing to remove the terms 'light' and 'mild,' but not any other word or image that would convey the same false message. Tobacco companies were quick to adapt, launching products that avoided the word 'light' and mild. Strategic use by tobacco companies of the right associated colours and imagery in this new brands continues to reinforce the image of these products as 'light' in consumers' minds, thus perpetuating deception.

On the one hand, the tobacco companies are managing to continue to deceive consumers; on the other hand they have issued heavy-handed warnings to Health Canada with threats of trade action and charter challenges. This Jekyll-and-Hyde strategy appears to be working. Instead of pressing forward to defend public interest by quickly by ending the deception now, Health Canada has returned to "studying" the issue, as they have been for 25 years.

In the absence of public articulation of intention by the department or the Minister since the cabinet shuffle in January, Imperial Tobacco has been able to report to its shareholders that the new health minister has postponed the initiative.

The stakes in this case are higher than just ending the deception that appears on cigarette packages. Ending the industry's deceptive imagery and labelling is one of the most obvious and most clearly established interventions governments can take to establish codes of corporate conduct to protect consumers.

If the new Minister of Health and the department do not feel courageous enough to see this initiative through, then other more complex interventions, like regulating how cigarettes are made, requiring plain packaging, changing the retail environment for cigarettes or finally changing the market structure for tobacco, will likely remain in the queue for another 25 years.

The history of lights

The early years

1950s and 1960s – Tobacco companies successfully promote filter cigarettes.

1960s and 1970s – Tobacco companies foster the belief that light and mild cigarettes would be less hazardous and that they could and would make them.

1970s and 1980s – Cigarette companies concentrate marketing efforts on light and mild cigarettes. Public health authorities encourage light and mild as a less hazardous way of smoking.

1980s -

Cigarettes labelled light and mild dominate the marketplace; Research clearly points to compensation as widespread; Research fails to show any health gain from light and mild.

1990s -

Consumers continue to be misled into thinking that light and mild cigarettes are less hazardous.

The real truth about light and mild emerges from research and the tobacco companies' own documents.

2000 - 2001

February 2000 – WHO experts recommend ban on misleading descriptors.

November 2000— Joe Battaglia sues Imperial Tobacco in Small Claims Court for \$6,000, claiming that he had been deceived into thinking that Matinee Extra Mild would give him less nicotine, and help him end his addiction.

May 2001 – Canadian Health Minister asks companies to remove misleading descriptors

voluntarily.

June 2001— Small Claims judge rules against Joe Battaglia.

July 2001 – EU directive issued, banning misleading descriptors by 2003.

August 2001 – Israel conducts criminal investigation into 'light' and 'mild' as deceptive labelling.

August 2001 – Canadian expert panel meets and calls for removal of misleading descriptors.

September, 2001 – Ministerial Advisory Council echoes experts.

November, 2001 – US NCI monograph on cigarette labelling finds 'light' and 'mild' to be misleading.

December 2001 – Health Canada issues invites comment

on proposal to remove words 'light' and 'mild'.

January 2002 – Brazilian regulation banning misleading descriptors comes into force.

2002

Spring 2002 – Anticipating regulation, Canadian tobacco companies change the deception from 'light' and 'mild' to 'Silver' and 'Edition'.

Spring 2002 – Australian investigation commenced of light and mild as deceptive and illegal practice.

March 2002 – Oregon court orders Philip Morris to pay over \$150 million in damages for misleading smoker with 'light' cigarettes.

Clearing the Air.

How to Build Better Smoke-free By-Laws

One of the most important recent developments in public health is the growth of by-laws restricting or banning smoking in public places.

Already, over 30 Canadian municipalities have legislated smoke-free bars and restaurants, and provincial legislation is developing. In some municipalities (like Victoria, Vancouver and Ottawa), these measures are already in place; in others they will be in effect soon.

At a workshop hosted by Health Canada and Physicians for a Smoke-Free, participants from across Canada reflected discussed the best ways to build smoke-free public spaces. They concluded that it is possible to implement 100% protection from second hand smoke in any Canadian municipality — provided that there was a thoughtful and well-run campaign to achieve it.

Legislating smoke-free workplaces does not just happen. These measures result when a determined health community works together to convince their fellow citizens of the importance of legislated smoke-free workplaces.

This experienced group had advice!!

Pass a strong by-law

- **Go for the “gold standard” of complete protection in bars, restaurants and all public places.**

With growing public support and experience in a number of communities with complete smoking bans, getting the highest level of protection is achievable.

- **Include workplace protection measures in your by-law.**

It's easier to enforce when the by-law regulates both workplaces and public places

- **Keep definitions simple.**

A by-law that everyone can understand is easier to build support for.

- **Frame the issue in as many ways as you can.**

Expand your arguments beyond health to cover the other benefits of smoking bans.

- **Mobilize your support — especially the ‘silent majority’.**

Most citizens support these by-laws, but don't know that their active support — like calling their councilors — will make a difference. Even a small budget will allow for mailings and other materials to encourage their active participation.

- **Appoint a media contact.**

Begin early in the process to build media support.

- **Marshall the health evidence.**

The science is clear that any level of exposure to second-hand smoke is hazardous. Campaigners need to marshall the key scientific evidence behind this strong conclusion — and explain it authoritatively — over and over again.

- **Health Statistics aren't enough. Show the media and politicians the people who need protection.**

Present real people with real stories — like asthmatics who can't go to restaurants, or musicians who have had to give up playing in bars.

- **Avoid referenda or plebiscites.**

Monied interests, like tobacco companies, can use their economic clout to distort public opinion.

- **Consult, consult, consult.**

But keep the focus on public health! Reach out to all kinds of community groups.

- **Maintain a level playing field.**

Businesses want the same rules to apply to all establishments (restaurants and bars).

- **Make it a community by-law.**

Promote the by-law as one belonging to the community, not the department of health or individual politicians or advocacy groups.

- **Find champions for the issue.**

Visible community champions are needed both inside and outside the political structure.

- **Don't focus on kids.**

If you frame your campaign around ‘protecting kids’ then it will be hard to keep support for other important areas, like bars or bans in evening hours.

- **Have a full time campaign manager.**

If you don't have someone to manage the issue on a full-time basis, you risk losing direction and focus.

- **Make your by-law smoke-free and exemption-free.**

Exemptions for certain businesses (like legions or casinos) reduce support among business owners (who want a level playing field) and can also make the by-law vulnerable to court challenge.

- **Time your campaign carefully.**

Although protection is urgently required for workers and the public exposed to smoke, it may be counter-productive to push a campaign before a community is ready to accept it. Finding the right moment to push (or push again) for smoke-free places is an important strategic decision.

Ensure compliance

- **Give yourself time.**

A pre-implementation campaign is needed to generate acceptance for the by-law, and to familiarize everyone with its provisions.

- **Implement in good weather.**

The first weeks are the most acute for proprietors and patrons. Making the first “outdoor smoking” breaks in good weather makes this transition easier.

- **Make a commitment to enforce.**

Without enforcement, the by-law will not work (you can’t expect voluntary compliance). Enforcement officers have to be budgeted for, and given adequate training.

- **Put the onus for enforcement on the proprietor.**

As by-law enforcement officers are restricted in their ability to ask for

genuine identification, patrons who break the law can often walk away without penalty. The proprietor needs to have a reason to ensure that the patrons obey the law.

- **Have staff visit all affected premises.**

Giving away free signage is helpful and appreciated.

Anticipate challenge

- **Expect hostility.**

A small vocal group of bar and pub owners may continue to fight even after the rest of the community has celebrated new laws. By documenting every contact with the hospitality sector, you can guard against charges of ‘lack of consultation.’

- **Expect Court challenge.**

Although no challenge to a by-law has yet been successful, court actions are now commonplace. (The only

defeat in Canadian courts for smoke-free laws was the ruling that the B.C. WCB had to re-do its consultation process).

- **Expect False arguments.**

You will need to debunk claims and statements which aren’t true, but which can be influential. Current arguments to guard against include:

- “*The Library of Congress found that second-hand smoke is not dangerous,*”
- “*The WHO/IARC study showed no health consequences,*”
- “*Ventilation can successfully remove enough smoke to make the air safe,*”
- “*Smoking bans harm the economy, and put bars out of business,*”
- “*Because cigarettes are legal, smoking shouldn’t be restricted.*”

Behind the Scenes

How Canadian Tobacco Companies orchestrated the war on smoking bans

Newly-released Tobacco Industry Documents Show

- **The Big Three developed ‘Ventilation’ solution to block smoking bans.**

- **The Big Three hired ‘consultants’ to mobilize against smoking bans.**

- **The Big Three worked together to develop cross-Canada strategies to block smoking bans.**

- **The Big Three spent millions fighting proposals to protect Canadians from second-hand smoke.**

For most of the decade, efforts to introduce clean-air laws and policies have been strongly opposed by a handful of bars and restaurant owners. Their use of similar arguments and similar tactics raised suspicions that these efforts were being coordinated by a central agency. Only recently (February 2002) did evidence come to light that the Canadian tobacco industry and its foreign owners were working secretly to block bans on smoking.

- The Canadian Tobacco Manufacturers Council (CTMC) hires agents to mobilize against by-law change. (1995)

- Through the ‘Courtesy of Choice’ program, the CTMC funds the development of a strategy to promote ‘ventilation’ solutions, acknowledging that a goal is to prevent smoking bans. (1998)

- CTMC recruits front groups in hospitality and air-systems sectors, including the Ontario Restaurant Association to campaign against bans on smoking. (1998)

- CTMC hosts secret meetings with public relations and hospitality agencies to develop strategy to promote ventilation and defeat smoking bans. It funds the Hotel Association of Canada to mobilize grass root resistance to smoking bans through “courtesy of choice.” (1998)

- CTMC recruits British Columbia pubs to oppose smoking bans, and provides media training to them. It mobilizes BC hotels against smoking bans through Courtesy of Choice (1998).

Original documents and information can be found at www.smoke-free.ca

Hiding Behind Kids

Tobacco Youth Programs Designed to Prevent Legislation and to Buy Legitimacy

What's wrong with tobacco industry youth programs?

Plenty.

Canada's tobacco companies spend millions of dollars training retailers to not sell cigarettes to children and running programs encouraging kids not to smoke.

They lobby politicians to protect kids from smoking by making it illegal for kids to smoke.

Chambers of Commerce, Police Associations, School Boards, Boys and Girls Clubs and other worthy groups often support these campaigns—yet Canada's health community is opposed. What gives?

A recent review of tobacco industry documents suggests that scepticism about these programs is well deserved. Where these programs are involved, there is much worse than meets the eye.

Shifting the focus, shifting the blame

Leading document researchers Anne Landman, Pamela Ling and Stanton Glantz [1] reviewed almost 500 documents related to the development, deployment and evaluation of youth programs. They found these programs have significant flaws:

- The industry uses the programs to reinforce smoking as an “adult choice,” making smoking more attractive to some youth.



- The programs are used to reinforce the impression that children start smoking as a result of peer pressure, not as a result of industry promotions

- The programs emphasize “the law” as a reason not to smoke (shifting the focus from health or industry liability)

- The programs avoid discussions of addiction, disease or second-hand smoke

- The industry's own documents show that the companies introduced these programs in

response to public concern about cigarettes being marketed to children, and to forestall legislation.

- Retailer programs (like Operation ID) were also used to recruit retailers as allies against health legislation.

Buying Credibility.

Tobacco Companies use “youth” programs to establish “strategic partnerships” with credible groups. U.S. documents showed that these relationships were often initiated with grants and donations. In Canada, the financial relationship between the tobacco companies and community groups has not become public — but Operation ID boasts of its partnership with Boys and Girls clubs and other youth groups.

[1] *Tobacco Industry Youth Smoking Prevention Programs: Protecting the Industry and Hurting Tobacco Control.* Anne Landman, Pamela Ling and Stanton Glantz. *American Journal of Public Health*, June 2002, p. 917.

In their own words

A 1991 document* prepared for the U.S. tobacco trade association (the Tobacco Institute) bluntly lays out the purpose of programs like Operation ID/School Zone and other industry ‘youth’ programs.

The youth program and its individual parts [prevent legislation] by:

- *providing ongoing and persuasive evidence that the industry is actively discouraging youth smoking and independent verification that the industry's efforts are valid*
- *Reinforcing the belief that peer pressure—not advertising—is the cause of youth smoking*
- *Seizing the political center and forcing the anti-smokers to an extreme*

The strategy is fairly simple:

1. *Heavily promote industry opposition to youth smoking*
2. *Align the industry with broader, more sophisticated view of the problem, i.e. parental inability to offset peer pressure*
3. *Work with and through credible child welfare professionals and educators to tackle the “problem.”*
4. *Bait anti-tobacco forces to criticize industry efforts. Focus media on anti's extremisms...*

*Discussion Paper, January 29, 1991, Tobacco Institute, Bates No. TIMN0067411/7421.