



News Briefs

December 2000

State Compliance Rate Exceeds Target

By: Katrinka Lally, University of Illinois at Chicago

The Illinois Liquor Control Commission has completed its annual round of retailer compliance checks for the State Annual Survey to measure the state's effectiveness to reduce youth access to tobacco products. The Commission is pleased to announce that for the third straight year, more than 80% of tobacco retailers are complying with minimum-age tobacco laws.

Compliance checks, which are required by the Synar Amendment to the U.S. Public Health Service Act, consist of random, unannounced inspections of tobacco retailers. Compliance

checks utilize kids aged 17 and under to determine the compliance rate of retailers throughout the state in order to measure Illinois' progress in reducing underage tobacco sales. The Synar Amendment also requires that all states achieve an 80% compliance rate by the year 2000. Illinois' compliance rate for the year 2000 is 84.7% well over the mandated rate but below the state's 1999 high of 88.5% compliance. Mark T. Bishop, acting executive director of the Commission believes

that even with a compliance rate over 80% the battle is not yet finished. "Even though Illinois' compliance rate continues to exceed the required 80%, we are committed to working with state and local officials to ensure long term strategies continue to increase retailer compliance to minimum-age tobacco laws," said Bishop.

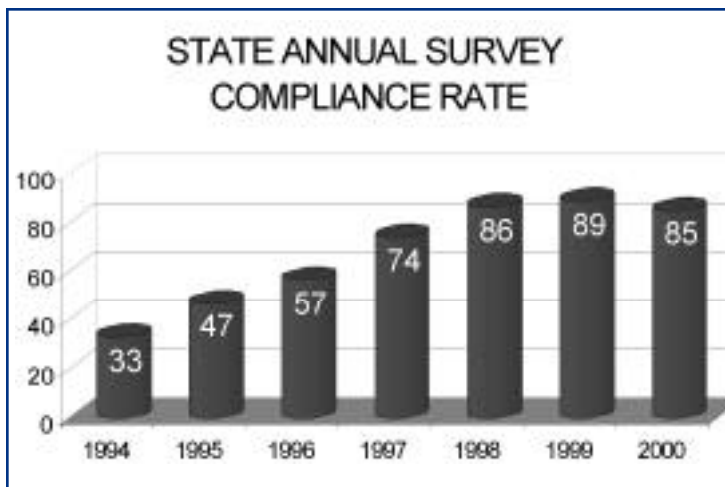
The U.S. Supreme Court ruling that eliminated the U.S. Food & Drug Administration's (FDA) tobacco program jeopardizes the state's progress to increase retailer compliance (see **Supreme Court Rules Against FDA** on page 2). With the ruling, came the elimination of the FDA's 6,000 yearly compliance checks along with its multi-media educational program which provided a statewide tobacco control presence. However, Governor Ryan and the General Assembly reacted quickly to this setback by appropriating \$1 million from the Tobacco Settlement Fund to the

Commission to establish the "Kids Can't Buy 'Em Here" Tobacco Enforcement Program. This is a comprehensive grant program which involves a combination of retailer education and enforcement to communities demonstrating a willingness and commitment to enforce minimum-age tobacco laws. In fact, under this new program yearly compliance checks will increase to over 17,000.

The Commission believes that local government activities, one-on-one retailer education programs, the Commission's "Kids

Can't Buy 'Em Here" Campaign and their past partnership with the FDA have significantly contributed to reducing the number of illegal tobacco sales to minors. "We are committed to working to keep compliance rates high and to create new strategies to stop tobacco sales, utilizing both retailer education programs as well as compliance checks, states Bishop. "Tobacco retailers continue to do an excellent job of training their staff about minimum-age tobacco laws.

But our ultimate goal is for all kids to be tobacco free. This means that every tobacco retailer must do their part to comply with minimum-age tobacco laws."



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Supreme Court Rules Against FDA

The United States Supreme Court decided on March 21, 2000 that the U.S. Food & Drug Administration (FDA) does not have the authority to regulate tobacco products. In 1996, the FDA took the initiative to regulate tobacco by developing regulations that were designed to curb the problem of underage tobacco sales and ultimately underage usage. The FDA developed a two-fold attack: reduce youth access to tobacco products and reduce the appeal of tobacco products by placing restrictions on advertising. The FDA claimed jurisdiction over tobacco products, namely cigarettes and smokeless tobacco, by saying these products contain nicotine which is a drug, and are therefore being used as drug delivery devices.

The Supreme Court Justices decided 5-4 (O'Connor, Rehnquist, Scalia, Kennedy, Thomas for the majority, and Breyer, Stevens, Souter, and Ginsberg dissenting) that the FDA does not in fact have the authority to regulate tobacco because Congress has not given the FDA the authority to regulate tobacco and furthermore as O'Connor notes in the decision, "Provisions of the Act [The FDCA which formed the FDA] require the agency to determine that any regulated product is 'safe' before it can be sold ... yet the FDA found ... that tobacco products are 'dangerous' and 'unsafe'."

This means that according to the rules of the Act, the FDA must ban tobacco which it didn't. So the FDA is not within its jurisdiction to regulate tobacco. The FDA claims that a ban on tobacco would do more harm than good because a regulated, restricted product is bound to be safer than a black market product or an unregulated product especially in the hands of children.

The ramifications of this decision for Illinois were serious. Illinois loses the ability to perform statewide FDA compliance checks; the FDA's Retailer Education Program was discontinued; and the FDA's multi-media campaigns which utilized newspapers, billboards, and radio spots to raise awareness of minimum-age tobacco laws also stopped.

However, with the assistance of Governor George H. Ryan and the Illinois General Assembly, the state has been able to reestablish a stronger regulatory program through the Commission's "Kids Can't Buy 'Em Here" Tobacco Program which includes retailer education programs and compliance checks. (See **Commission Awards \$1 Million in Grants** on page 4) In fact, almost three times as many compliance checks will now be conducted each year under this new program.

FDA Tobacco Compliance Check Summary

.....▶ August 1997 – March 2000 ◀.....

▶ Nationwide, over 191,725 compliance checks were completed with a violation rate of 26 percent. *(It is believed there are approximately one million tobacco retailers in the nation and that children ages 12 to 17 consume an estimated 924 million packs of cigarettes per year, generating a retail sales value of \$1.86 billion.)*

▶ In Illinois, 14,159 FDA compliance checks were completed with a violation rate of 22 percent.

▶ In Illinois, \$40,600 in fines were collected from these violations.



Nationally, sale violations were more likely to occur under the following conditions:

- ✓ If checks were completed after 5:00 p.m.
- ✓ If the minor attempting to purchase tobacco was 17 years of age, rather than 15 or 16.
- ✓ If the clerk did not ask for verification of age (ID).
- ✓ If the purchase request was for smokeless tobacco rather than cigarettes.
- ✓ If female clerks and female minors were involved.
- ✓ If retail establishments were located in rural geographies.
- ✓ If retail establishments were convenience store selling gas, gas station, drugstore, supermarket or general merchandise.



\$\$\$\$\$\$ Commission Awards



Tobacco Compliance Specialist Toni Berrios, reviews the available resources to communities participating in the program.



Participants were able to view the Commission's Retail Kit and samples of Bidi cigarettes. The sale of Bidis will be prohibited January 1, 2001.



135 communities were represented by Mayors, Law Enforcement Agencies and Health Officials.

The Illinois Liquor Control Commission announces the launch of the "Kids Can't Buy 'Em Here" Tobacco Enforcement Program. This is a comprehensive educational and enforcement program designed to reduce the sale of tobacco to minors.

As the state's lead agency designated to develop strategies to reduce the sale of tobacco products to minors as prescribed in the Synar Amendment of the U.S. Public Health Service Act, The Commission is awarding grants to 141 communities representing 77% of the state's population. Participating communities will conduct a tobacco control program which involves a combination of retailer education and enforcement compliance checks. Funds were awarded to those communities that presented a plan demonstrating a willingness and commitment for both short and long term enforcement of minimum-age tobacco laws.

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Illinois must ensure that a minimum of 80% of its tobacco retailers refuse to sell tobacco products to minors when tested through compliance checks utilizing kids under the age of 18. Failure to achieve an 80% compliance rate could result in the assessing of penalties of up to \$28 million against the state's Substance Abuse Treatment and Prevention block grant funding. This program has



Participants will conduct over 17,000 compliance checks during the next nine months.

\$1 Million in Grants \$\$\$\$\$\$

been funded by Governor Ryan and the General Assembly which appropriated \$1 million from the Tobacco Settlement Fund to the Commission. Grants were awarded to communities to initiate the Commission's enforcement program or to support existing programs they may have.

"We are excited to offer this program to Illinois communities and commend them for their interest in assisting us reach our ultimate goal – for all kids to be tobacco-free," said Mark T. Bishop, acting executive director of the Commission. "Through the implementation of retail education programs, communities are equipping retailers in their areas with the appropriate tools they will need to reduce illegal tobacco sales to minors."

In September, 175 program participants attended orientation meetings to review program requirements and expectations. Additionally, the Commission provided a review of programs it offers to enhance community efforts. These programs include Retail Education Classes, Youth Recruitment Assistance, Youth Training Classes, and sponsorship of the Illinois Law Enforcement Training and Standard Board's course for law enforcement officers titled "Conducting Alcohol and Tobacco Compliance Checks."

"The state is making a substantial commitment to enforce minimum-age tobacco laws. Last year, participating communities conducted a combined total of 846 compliance checks. Under this new program, those same communities will conduct over 17,000 compliance checks at approximately 10,000 tobacco retail locations," Bishop stated.



A participant reviews the Commission's youth training program which is designed to prepare minors used during the compliance check inspections.



A participant reviews the Commission's Retailer Kit which includes training guides for managers and clerks.



Officer Mike Perkins of the Peoria Police Department and his Police Cadets have participated in Commission compliance checks since 1998.



Karen Faltin, Industry Education Manager, provided suggestions and resources to effectively market community programs through the media.



Ivan Fernandez, Legal Counsel, reviewed current minimum-age tobacco law including signage laws.



Bidis Banned

By: Katrinka Lally, University of Illinois at Chicago



On June 2, 2000, Governor George H. Ryan signed a bill into law which bans the sale of bidis in Illinois. This law, which is effective January 1, 2001, outlaws the sale of these flavored, hand rolled cigarettes to any person regardless of age, in the state of Illinois.

Bidis (pronounced beedees) are the latest fad in cigarettes. Manufactured in India and East Asian countries where they are known as "poor man's cigarettes", bidis are small, hand rolled, filterless cigarettes which look suspiciously like marijuana joints. Consisting of rolled tobacco which has been placed in a tendu leaf, bidis are smoked plain in their native India, but upon arrival here in the United States, flavorings such as strawberry, chocolate, mango, and mint are added to mask the harshness of the tobacco.

These flavorings make bidis more attractive to young people, especially adolescents and teenagers who see these cigarettes as a type of candy rather than as a potentially dangerous tobacco product. This has led to an enormous growth in the number of underage kids who smoke bidis. A survey in Massachusetts of 642 middle school and high school children found that 40% of those surveyed had tried bidis and 16% smoked them on a regular basis.

Of particular concern are the results of other studies

done on bidis. While there is less tobacco in a bidi than in a regular cigarette, bidis contain more toxins. There is three times the amount of nicotine and carbon monoxide, and five times as much tar. And because bidis are wrapped in the nonporous tendu leaf a smoker must draw harder to keep a bidi lit which means that the smoker inhales more toxins. Studies have shown that in India, bidi smokers have higher rates of cancers of the mouth than do smokers who smoke regular cigarettes.

The ease with which minors can purchase bidis is another concern for lawmakers. Minors are able to purchase bidis over the Internet and via the telephone without any age verification being required. Seventeen states including Illinois are working to crack down on retailers who are selling bidis to minors. In fact, the Commission participated with Attorney General Jim Ryan's Consumer Fraud Bureau in an Internet compliance check operation that resulted in illegal bidi purchases in 4 of 5 attempts. Violators received cease and desist letters from Attorney General Jim Ryan.

The final concern is the allegation that bidis are produced by child or slave labor. The United States Customs Service has already banned the Mangalore Ganesh brand because of evidence of child-slave labor used in manufacturing.

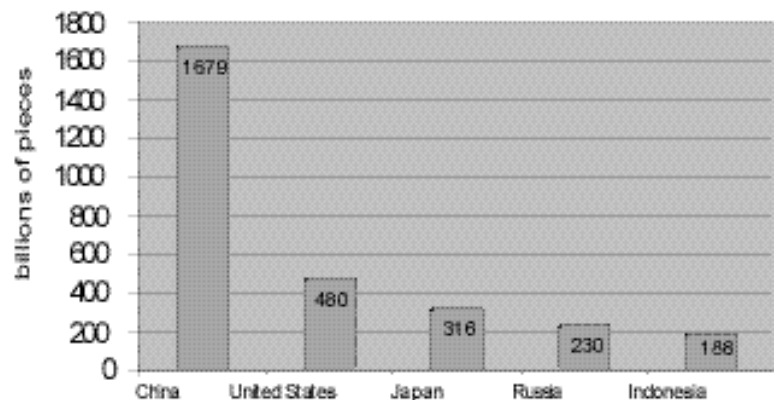
- ✓ **Every day approximately 80 – 100,000 young people around the world become addicted to tobacco.**
- ✓ **If current trends continue, 250 million children alive today will die from a tobacco-related disease.**
- ✓ **In the United States, an estimated 86% of U.S. teenagers who smoke use the three most heavily advertised brands – Marlboro, Camel and Newport – even though these brands constitute only 30% of the U.S. adult market.**
- ✓ **Children are more sensitive to changes in cigarette prices because they have less disposable income than adults and are less addicted to nicotine. In Canada, when tobacco prices were raised dramatically in the 1980s and early 1990s, youth consumption plummeted by 60%, while overall consumption dropped 38%.**



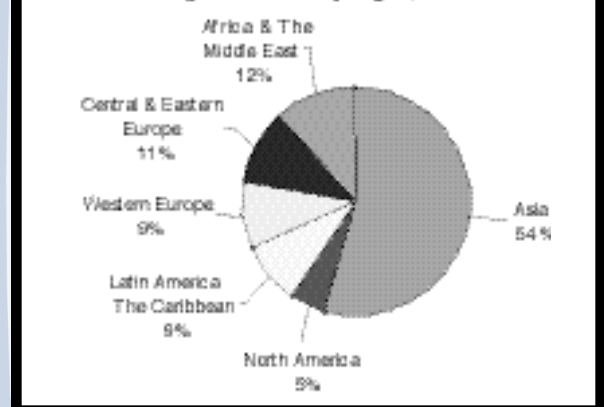
FACTS & FIGURES

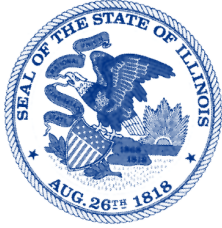
- ✓ Although tobacco is grown in more than 100 countries, just four countries – Brazil, China, India and the United States – account for two-thirds of total global production. Only two countries – Malawi and Zimbabwe – are significantly dependent on export earnings from tobacco.
- ✓ 500 million people alive today will eventually be killed by tobacco.
- ✓ Approximately 4 million people will die from tobacco-related illnesses in 2000. By 2030, 10 million people will die each year.
- ✓ Smoking-related diseases are responsible for 1 in 10 adult deaths worldwide.
- ✓ Tobacco will soon become the leading cause of death worldwide, causing more deaths than HIV, maternal mortality, automobile accidents, homicide and suicide combined.
- ✓ Currently, approximately 80% of the world's smokers live in developing countries.
- ✓ Globally, 5.3 trillion cigarettes were consumed in 1997.

Top 5 Cigarette Consuming Countries, 1997



World Percentage of Smokers, By Region, 1997





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Governor

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Retailer Kit Available



The Illinois Liquor Control Commission is pleased to provide tobacco retailers throughout the state with "Kids Can't Buy 'Em Here" Tobacco Retailer Kits. The kit contains information and materials to assist retail efforts to comply with Illinois' minimum-age tobacco laws. This packet includes a publication on minimum-age tobacco laws, required signs for posting, a two-year calendar to assist in validating customer ages, and ID verification training guides for managers and clerks. The Commission urges all retailers to make every effort to check customer identification for age and identity to ensure that laws are enforced for not only tobacco, but liquor as well.

But that's not all. Coming in February 2001, the second installment of our Tobacco Retailer Kit will become available. The eye-catching materials were tested in focus groups and 9 out of 10 managers say "IT WORKS." The kit includes all of the materials found in the first installment, plus a cash mat, in-store posters, floor graphics, danglers and static clings for windows. The best part about the kit – it is absolutely FREE! If you would like a retailer kit, contact Jeff Barr, Tobacco Program Manager at (312) 814-6884.