



CIGARETTE COMPANY YOUTH ACCESS INITIATIVES: FAKE AND INEFFECTIVE

To block the rigorous enforcement of effective federal, state, or local laws to prevent illegal sales of tobacco products to youth, the tobacco industry regularly claims that its own voluntary “anti-youth-access” programs will adequately protect against such sales to kids. But those voluntary programs are inherently flawed, have never been implemented effectively, and have never functioned properly to reduce youth access to tobacco products or stop illegal cigarette sales to kids. In fact, the Surgeon General concluded in 2012 that the tobacco companies’ youth smoking prevention programs, which include youth access initiatives, “...have not demonstrated an impact on the initiation or prevalence of smoking among young people.”¹

- In 1990, the tobacco industry launched an initiative called It’s the Law, which provided retailers with educational materials about not selling to kids. Beyond sending decals and signage to some retail stores, this program was never effectively implemented. Studies in the *American Journal of Public Health* found that compliance with the program was extremely low and it was not effective.² A 1994 Philip Morris email revealed the true purpose of the It’s the Law (ITL) initiative, stating:

*“We have two objectives for the ITL program -- 1) to provide an alternative to legislative/mandated policy actions; and 2) to improve PM’s image regarding the youth issue.”*³

- Later in the 1990s, Philip Morris and the other major cigarette companies launched similar programs, including We Card and Action Against Access. Like the previous versions, these were half efforts, at best. For example, an audit of Action Against Access by former U.S. Senator Warren Rudman found that the program was not implemented completely and that retailers did not take it seriously. Two years after the program had been in place, Philip Morris had penalized only sixteen tobacco retailers out of the tens if not hundreds of thousands illegally selling to kids.⁴

In 2000, a study found that tobacco product retail stores with We Card signs from the tobacco industry’s voluntary program to stop sales to kids actually had average youth sales rates roughly equal to stores with no signs at all and were significantly more likely to make illegal sales to minors than those retail outlets with government-sponsored no-youth-sales signs.⁵ A 2010 study based on an analysis of tobacco industry documents made public by the Master Settlement Agreement concluded that the We Card program was designed not to reduce youth tobacco use but rather to improve the tobacco industry’s image, reduce the threat of additional government regulation, and undermine the enforcement of existing laws.⁶

- A 1995 memo from Philip Morris executive Ellen Merlo, discussing the composition of a speech by the Philip Morris President and CEO, confirms that the tobacco industry was forced to address the youth access issue because it needed to “find solutions. . . on the one issue that this industry is most vulnerable on [youth access].” Going further, Merlo said: “If we don’t seize the initiative the government and the antis will take it away from us.”⁷ Along the same lines, another Philip Morris executive wrote that same year: “If we can frame proactive legislation or other kinds of actions on the Youth Access issue... we will be protecting our industry on into the future.”⁸

Voluntary industry-sponsored programs like We Card simply cannot include all or even most of the key characteristics required for any retailer anti-youth-access program to work effectively. Based on solid research findings, state attorneys general and other experts have recommended that any effort to reduce youth access to tobacco products include each and all of the following key elements:

- Mandatory participation by all tobacco retailers
- Designating an agency in the state with clear responsibility for enforcement
- Providing adequate, guaranteed funding for enforcement
- Licensing of vendors by the enforcing agency; licensing should be self-supporting
- Making frequent and realistic compliance checks, with a goal of 95% compliance
- Meaningful penalties, including graduated fines and ultimately, license suspension
- No preemption of local ordinances
- Education and awareness efforts for merchants and the public.⁹

In sharp contrast, the tobacco industry's various voluntary programs do not cover all retailers, much less license them, have no adequate overseeing enforcement entity, do not include compliance checks, and do not subject non-complying retailers to any meaningful penalties.

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More information on tobacco company activities is available at
http://www.tobaccofreekids.org/facts_issues/fact_sheets/industry/.

¹ HHS, *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*, 2012, http://www.cdc.gov/tobacco/data_statistics/sgr/2012/index.htm.

² DiFranza, J & Brown, L, "The Tobacco Institute's "It's the Law" Campaign: Has It Halted Illegal Sales of Tobacco to Children," *American Journal of Public Health* 82(9):1271-73, September 1992; DiFranza, J, et al., "Youth Access to Tobacco: The Effects of Age, Gender, and "It's the Law" Programs," *American Journal of Public Health* 86(2):221-24, February 1996. See, also, DiFranza, J & Godshall, W, "Tobacco Industry Efforts Hindering Enforcement of the Ban on Tobacco Sales to Minors: Actions Speak Louder than Words," *Tobacco Control* 5(2):127-31, Summer 1996.

³ Crawford, D, email to Slavitt, J, "RE: Sting Operations," May 9, 1994, Philip Morris Bates Number 2023587951.

⁴ Kirshenbaum, M, et al., *Smoke & Mirrors: How the Tobacco Industry Buys and Lies Its Way to Power and Profits*, Advocacy Institute, August 1998.

⁵ Cowling, D & Robbins, D, "Rates of Illegal Tobacco Sales to Minors Varies by Sign Type in California," Research Letter, *American Journal of Public Health*, 90(11):1792-93, November 2000.

⁶ Apollonio, DE & Malone, RE, "The 'We Card' Program: Tobacco Industry 'Youth Smoking Prevention' as Industry Self-Preservation," *American Journal of Public Health*, 100(7):1188-1201, July 2010.

⁷ Ellen Merlo, Philip Morris memo, "JJM Speech," February 9, 1995, Philip Morris Bates No. 2044046016.

⁸ 6-page draft Philip Morris speech, "Jjm to Pm Invitational Importance of Youth Issue," Feb 10, 1995, PM Bates No. 2044046017/6022.

⁹ See Stead, L & Lancaster, T, "A Systematic Review of Interventions for Preventing Tobacco Sales to Minors," *Tobacco Control* 9:169-176, Summer 2000, for a review of relevant scientific research.