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**Enforcing the law on  
tobacco sales to minors**

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The Smoke-free Environments Act 1990 prohibits the sale of tobacco products to persons under 18 years of age. Before the Act was amended in July 1997, the minimum age of sale was 16 years. In September 1996, the Ministry of Health began co-ordinating a programme of controlled purchase operations (CPOs), using under-age volunteers, to identify retailers illegally selling tobacco products to minors. From September 1996 to December 1997, 980 premises were visited in CPOs. Eighty-four (8.6%) of these visits resulted in the sale of tobacco products to under-age volunteers. Of the 49 retailers prosecuted to date (December 1997), 41 have been convicted. Fines ranged from \$100 to \$750 (inclusive of costs).

Young people in New Zealand continue to become addicted to nicotine at an age at which many do not realise the full consequences of smoking. Eighty-five percent of today's smokers started smoking by the age of 19.<sup>1</sup> By the time these young smokers have reached an age when they would be expected to have a greater appreciation of the health effects and addictive nature of smoking, many have difficulty stopping. Every day, an estimated 40 young New Zealanders take up smoking.<sup>2</sup>

In 1995, the Government launched a new campaign to confront youth smoking. The strategy had four components:

- the *Why start?* multimedia campaign
- increased smokefree sponsorship of sporting and cultural events
- a smokefree schools initiative
- increased enforcement of the ban on sales of tobacco products to minors.

This article reports on the last initiative - increased enforcement of section 30(1) of the Smoke-free Environments Act 1990 (the Act) which prohibits the sale of tobacco products to persons under 18 years of age (minors). The Act was amended in July 1997 to raise the minimum age of sale from 16 to 18

years. The majority of enforcement discussed in this paper was undertaken when the minimum age of sale was 16 years. The maximum fine for selling tobacco to minors is \$2 000.

A 1992 survey found that nearly 50% of 14-15 year olds had purchased cigarettes from a shop.<sup>3</sup> A similar survey found that 95% of 14-15 year olds said it was 'easy' or 'very easy' to buy cigarettes.<sup>4</sup> Only 24% of children had ever been refused sale of cigarettes because of age.

Between 1990 and 1994, despite the Ministry of Health and public health services receiving many complaints about sales of cigarettes to minors, only two retailers were prosecuted. While parents would readily complain about their children being sold cigarettes, in almost all cases they would not agree to their children appearing as a witness in court. In those few instances where both parents and children were willing, insufficient recordings of sale details (eg, date, time, what was said, and evidence of sale) meant that action could not be taken.

Therefore, in 1995, the Ministry piloted a scheme in which supervised volunteers under the age of 16 years attempted to buy cigarettes from retail outlets. Eight sales of cigarettes were made to the volunteers, five prosecutions were taken, and four convictions resulted.

Enforcement was further increased in September 1996, when a nationwide programme of controlled purchase operations (CPOs) began as part of the Government's smokefree strategy. Co-ordinated by the Ministry, enforcement is carried out by smokefree officers based in public health services around the country. The Ministry's goal is that every year at least 10% of tobacco product retailers will be visited in a CPO. Also, on an annual basis, 90% of retailers will be provided with advice on their responsibilities under the Act.

## **Method**

The under-age volunteers were usually between 12 and 14 years of age, when the minimum age of purchase was 16 years, and 14 to 16, when the minimum age increased to 18. The volunteers were required not to wear make up, which might make them look older, or hats or hoods which might obscure their faces. The retail outlets were chosen on a random basis, although past complaints of sales to minors and proximity to schools were taken into account. A variety of types of outlets were visited, including dairies, supermarkets, service stations, superettes, and lunchbars.

The volunteer was taken to the retail outlet by a smokefree officer. The volunteer entered the retail outlet and asked for a packet of cigarettes or other tobacco product. If the retailer refused to sell, the volunteer left the shop immediately, without further requesting the product. If a sale was made, the volunteer left the shop, and handed the cigarettes and change to the smokefree officer. The volunteer then completed a form detailing the events.

The smokefree officer went inside the shop to interview the person who had sold the cigarettes or the owner of the shop.

A file on the incident was prepared, and forwarded to the Ministry of Health for a decision on whether a prosecution would be undertaken.

## **Results**

Between September 1996 and June 1997, 693 CPOs were conducted, and 67 (9.7%) resulted in the sale of tobacco products to under-age volunteers. Between July and December 1997, a further 287 CPOs were conducted, and 17 (5.9%) resulted in sales to volunteers. Therefore, a total of 980 CPOs were made between September 1996 and December 1997, with 84 (8.6%) resulting in sales of tobacco products.

To date (December 1997), 49 retailers have been taken to court. Forty-one (84%) of these retailers were convicted and eight were discharged without conviction. The remainder of the cases are pending prosecution. Of the 49 cases taken to court, 39 of the retailers pleaded guilty and 10 elected a defended hearing. Seven of the defended hearings resulted in convictions and three resulted in discharges without conviction.

Fines given to convicted retailers ranged from \$100 to \$750 (inclusive of costs).

## **Discussion**

Of the CPOs conducted over the 16 month period of September 1996 to December 1997, 8.6% resulted in sales of tobacco products to under-age volunteers. The rate of sales in the early part of the programme (9.7%) was higher than that observed later (5.9%). The percentage of retailers who sold to minors before the CPO programme began in September 1996 is likely to have been higher than the rate of 9.7% found in the early part of the programme. By the time the programme began, it is likely some retailers had been influenced by the 1995 pilot scheme, which had received considerable publicity.

Similarly, once the programme had begun, by the time CPO visits were extended to the whole country, retailers in most areas would have been aware of the programme. This increased awareness probably accounts for the reduction in the rate of sales to under-age volunteers observed during the programme. Evidence from smokefree officers also suggests that young people are finding it more difficult to purchase cigarettes since the programme began. In addition, when the programme began, there was a marked increase in retail outlets of signage advising customers of the ban on selling cigarettes to minors.

Western Australian experience suggests that a 68% reduction in the number of retailers who sell tobacco to minors is possible by educating retailers and enforcing the law.<sup>5</sup> In Santa Clara County in California, a six-month retailer education and enforcement campaign resulted in a drop from 74% to 39% in the proportion of stores that sold cigarettes to minors.<sup>6</sup> A similar study of four northern California communities found that education alone had a limited effect on reducing illegal tobacco sales to minors, while education plus enforcement significantly decreased illegal sales.<sup>7</sup>

Making it more difficult for minors to obtain cigarettes raises the age of use of, and addiction to, tobacco products.<sup>6</sup> The younger a person starts to smoke, the less likely they are to quit, and the more likely they are to become heavy smokers, suffer smoking-related health problems, and die prematurely.<sup>5</sup> In addition, the longer a person delays initiation of smoking, the less likely they are to begin.

It will be difficult to accurately measure the specific effect CPOs have on the smoking rates of young people in New Zealand, as there is currently a long-term, multi-pronged smoking reduction strategy in place. It is expected that CPOs, in conjunction with other components of the smokefree strategy, will reduce youth smoking rates.

Complaints about retailers selling cigarettes to minors can be made to smokefree officers at public health services. A CPO on the premises will then be conducted, or the retailer will be provided with information on their obligations under the Act. Public health services also hold contact information for smoking cessation programmes suitable for young people.

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