



New York Association of Convenience Stores

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MEMORANDUM IN SUPPORT

A.5899 by Member of Assembly Ortiz

AN ACT to amend the public health law, in relation to unlawful possession of tobacco with intent to use by persons under the age of eighteen years

Firecrackers? Don't let us catch you with them. *In New York State, it is illegal for teenagers to possess fireworks (Violation, Penal Law §270.00).*

Deface a concrete wall with vulgarities? You could go to jail. *In New York State, it is illegal for teenagers to possess graffiti tools (Class B Misdemeanor, Penal Law §145.65).*

Cigarettes? Smoke 'em if you got 'em. *In New York State, it is not illegal for teenagers to possess tobacco products.*

It's true. In spite of all that is known about the dangers of tobacco use, all the compelling billboards and TV commercials warning teenagers not to smoke, and all the extraordinary educational efforts of leading health organizations, there is no law barring kids from possessing or using cigarettes in New York State.

The New York Association of Convenience Stores, representing 7,000 retail establishments licensed to responsibly sell legal tobacco products to adult customers, believes preventing youth access to tobacco should be a shared responsibility among retailers, parents, and young people themselves.

At least 40 other states embrace this principle, outlawing possession or use of tobacco product by minors. But in New York, while there is a constant clamor to penalize those who sell tobacco to minors – even inadvertently – underage smokers themselves are not held accountable at all. A.5899 corrects that imbalance by making it illegal for persons under 18 to possess cigarettes or other tobacco products.

No one advocates putting a kid in jail for smoking. But issuing an appearance ticket, and sentencing a violator to a tobacco awareness class or a small fine, are entirely appropriate, especially considering the oft-cited long-term health consequences and health care costs associated with tobacco use.

It is disheartening to our members that health department personnel have the authority to enter a store undercover to detect any underage sale activity, yet are powerless to take action if on the way out of the store they see a group of teenagers smoking on the opposite corner. Something is fundamentally wrong with that picture.

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Opponents of A.5899 blindly claim it "criminalizes" young. Hogwash. The bill does not make underage possession of tobacco a criminal offense under the Penal Law; it makes it a civil offense under the Public Health Law.

The majority of teens who smoke obtain cigarettes not from stores, but from adult relatives and acquaintances. So if New York is serious about stopping teen smoking, it needs a law like this that stops teens who are smoking.

Which message makes more sense?

- "Don't smoke. It's bad for you. If you smoke anyway, we really really wish you wouldn't."

- "Don't smoke. It's bad for you. If you smoke anyway, there will be consequences."

We salute Member of Assembly Ortiz for advancing the concept of shared responsibility, and we respectfully urge other Members of the Assembly to support this legislation.

James S. Calvin
President, NYACS
May 29, 2007