

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 1/23/02

BILL NO. SB 360

OR

SUBJECT TOBACCO COMPLIANCE

~~BOB~~ BOB BARTLETT
(NAME)

BUCKNEY ST, STE 212
(Street Address or Route Number)

MADISON, WI 53718
(City and Zip Code)

CONV. STORE ASSN / PETROLEUM MARKETERS
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 1/23/02

BILL NO. SB 360

OR

SUBJECT _____

Maureen Oboren
(NAME)

329 W. Wilson
(Street Address or Route Number)

MADISON, WI 53703
(City and Zip Code)

SMOKE FREE WI
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 1/23/02

BILL NO. SB 360

OR

SUBJECT _____

BRANDON SCHOLZ
(NAME)

2601 CROSSROADS DR #185
(Street Address or Route Number)

MADISON 53718
(City and Zip Code)

WISCONSIN DECEAS ASSOCIATION
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
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Madison, WI 53707-7882

SB 360

03

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 1/23/02

BILL NO. 360

OR
SUBJECT _____

John Havsbeck
(NAME)

210 MLK Jr Blvd 507
(Street Address or Route Number)

Madison 53703
(City and Zip Code)

Madison Public Health
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

Speaking for information
only; Neither for nor against:

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Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 1.23.02

BILL NO. SB 360

OR
SUBJECT _____

Gary Radloff
(NAME)

1 W Wilson St
(Street Address or Route Number)

Madison, WI 53707
(City and Zip Code)

DPFS
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

Speaking for information
only; Neither for nor against:

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Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 1/23/02

BILL NO. SB 360

OR
SUBJECT _____

Gary Nelson
(NAME)

1 W. Wilson St.
(Street Address or Route Number)

Madison, WI 53707
(City and Zip Code)

Dept. of Health & Family Services
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

Speaking for information
only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: ~~Jan. 23 2002~~ Jan. 23 2002

BILL NO. ~~SB 360~~ SB 360

OR
SUBJECT ~~Abuse Compliance~~

~~SYNAC~~

(NAME) Carolea Roessler

(Street Address or Route Number) 184th Senate Dr.

(City and Zip Code)

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O.Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 23 January 02

BILL NO. SB 360

OR
SUBJECT

(NAME) Sen. Fred Ruser

(Street Address or Route Number) 220 south, Capitol

(City and Zip Code)

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O.Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 1/23/02

BILL NO. SB 360

OR
SUBJECT

(NAME) Kathi Kigore

(Street Address or Route Number) 2801 Fish Hatchery Rd.

(City and Zip Code) Madison WI 53713

(Representing) WI Restaurant Assn

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O.Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 1-23-02

BILL NO. SB 360

OR

SUBJECT _____

RANDY SPANLE
Director Ashland Area Council on A.D.A.
(NAME) INC.

206-6TH AVE. WEST
(Street Address or Route Number)

ASHLAND, WISC. 54806
(City and Zip Code)
ASHLAND AREA COUNCIL ON ALCOHOLISM
+ DRUG ABUSE INC.
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

Speaking for information
only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

January 18, 2002

Senator Judy Robson's Office
Attn: David Austin
P.O. Box 7882
Madison, WI 53707-7882

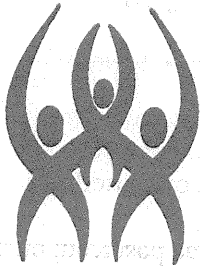
To Whom It May Concern:

I am writing in support Senate Bill 360. This bill puts enforcement provisions on underage access to tobacco products back into the "municipalities". I also support the "penny a pack" provision added to a pack of cigarettes, as this will solve the SYNAR Tobacco Amendment enforcement issues. Passage of this bill will take away the burden of taking the intoxicated drivers supplemental fund to solve the SYNAR Enforcement Issue. It will help the intoxicated driver seek AODA treatment services per statue and not create a highway safety issue.

Sincerely,

Name Terri Kramolis

Address 64509 Gillis Road
Ashland, WI. 54806



THE HUMAN SERVICE CENTER

(HUMAN SERVICES BOARD 51.42/51.437)

P. O. BOX 897

705 E. TIMBER DRIVE • RHINELANDER, WI 54501-0897

TELEPHONE: 715-369-2215

FAX: 715-369-2214

January 21, 2002

Senator Judith Robson
P.O. Box 7882
Madison, WI 53707-7882

Re: SB360

Dear Senator Robson:

I am writing to offer my strong support for SB360. This bill puts back the essential provisions of enforcement prohibiting underage access to tobacco products. Returning the provisions of enforcement to communities is essential in our ongoing efforts to reduce youthful access to tobacco and the likelihood of embarking on a lifelong smoking career, resulting in ill health and an untold cost to society.

It is essential that along with the return of enforcement provisions, a funding mechanism is put in place to provide the resources for increased enforcement. While SB360 does not specifically recommend a funding mechanism, to my understanding, I would offer the recommendation that a penny a pack increase in the cigarette tax be pursued to fund increased enforcement of limiting underage access to tobacco products.

It is important to identify an appropriate funding source that is tied to the issues of tobacco use, the cost of the use of tobacco and enforcement. This is why I offer the recommendation of a penny a pack increase in the cigarette tax for this purpose.

Currently, the State of Wisconsin is being penalized through the Synar Amendment to the Alcohol and Drug Abuse Block Grant due to a failure in the enforcement of underage access to tobacco products. This penalty could result in the loss of \$10 million of Federal AODA Block Grant funds. The State Department of Health and Family Services is proposing to fund an alternative plan of \$3 million to be identified to be put toward increased enforcement. Unfortunately, the department's plan is to utilize Intoxicated Driver Program Supplemental Funding to come up with the \$3 million. To do so will result in serious damage to the delivery of treatment to persons convicted of drunk driving and assessed as needing treatment services. It would only make sense to develop funding from the source, i.e. cigarette tax.

I thank you for the opportunity to provide this Statement of Support for SB360, and for activities toward identifying an appropriate funding source for increased enforcement.

Sincerely,

Mark S. Strosahl
Executive Director

MSS:lc



ASHLAND COUNTY HEALTH & HUMAN SERVICES DEPARTMENT

301 ELLIS AVENUE • ASHLAND, WISCONSIN 54806

ACHSD (715) 682-7004 • ACHD (715) 682-7028

Fax: 715-682-7924 • TTY: 715-682-7023 • E-mail: achsd@hds.co.ashland.wi.us

FAX COVER SHEET

DATE: 1/22/02

TO: Sen. Andy Robson

608-267-5171

ATTN: David Austin

RE: SB 360

SENDER: Jerry Esala

NUMBER OF PAGES: 4
(Includes Cover Sheet)

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January 18, 2002

Senator Judy Robson's Office
Attn: David Austin
P.O. Box 7882
Madison, WI 53707-7882

To Whom It May Concern:

I am writing in support Senate Bill 360. This bill puts enforcement provisions on underage access to tobacco products back into the "municipalities". I also support the "penny a pack" provision added to a pack of cigarettes, as this will solve the SYNAR Tobacco Amendment enforcement issue. Passage of this bill will take away the burden of taking the intoxicated drivers supplemental fund to solve the SYNAR Enforcement Issue. It will help the intoxicated driver seek AODA treatment services per statue and not create a highway safety issue.

Sincerely,

Name *Ann Pedersen*

Address 28990 State Hwy 118

Ashtland, Wis

54806

715-682-8064

January 18, 2002

Senator Judy Robson's Office
Attn: David Austin
P.O. Box 7882
Madison, WI 53707-7882

To Whom It May Concern:

I am writing in support Senate Bill 360. This bill puts enforcement provisions on underage access to tobacco products back into the "municipalities". I also support the "penny a pack" provision added to a pack of cigarettes, as this will solve the SYNAR Tobacco Amendment enforcement issues. Passage of this bill will take away the burden of taking the intoxicated drivers supplemental fund to solve the SYNAR Enforcement Issue. It will help the intoxicated driver seek AODA treatment services per statute and not create a highway safety issue.

Sincerely,

Name

Joel M. Janzhoz

Address

1114 6th Ave W

Ashland, WI 54806



**ASHLAND COUNTY
HEALTH & HUMAN SERVICES DEPARTMENT**

301 ELLIS AVENUE • ASHLAND, WISCONSIN 54806 • (715) 682-7004
Fax: 715-682-7924 • TTY: 715-682-7023 • E-mail: achsd@hsd.co.ashland.wi.us

Jane E. Snilsberg, Director

January 18, 2002

Senator Judy Robson's Office
Attn: David Austin
P.O. Box 7882
Madison, WI 53707-7882

To Whom It May Concern:

I am writing in support of Senate Bill 360. This bill puts enforcement provisions of underage access to tobacco products back into the "municipalities". I also support the "penny a pack" provision added to a pack of cigarettes, as this will solve the SYNAR Tobacco Amendment enforcement issues. Passage of this bill will take away the burden of taking the Intoxicated Drivers Supplemental (IDP) fund to solve the SYNAR Enforcement Issue. It will help the intoxicated driver seek AODA treatment services per statute and not create a highway safety issue.

Sincerely,

Name

Sheryl M. Spruntels

Address

Box 154

Mellen WI 54546



ASHLAND COUNTY
HEALTH & HUMAN SERVICES DEPARTMENT

301 ELLIS AVENUE • ASHLAND, WISCONSIN 54806 • (715) 682-7004
Fax: 715-682-7924 • TTY: 715-682-7023 • E-mail: achsd@hds.co.ashland.wi.us

Jane E. Snilsberg, Director

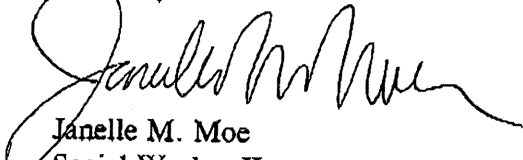
January 22, 2002

Senator Judy Robson's Office
Attn: David Austin
P.O. Box 7882
Madison, WI 53707-7882

Dear Senator Robson/Mr. Austin:

I am writing in support of Senate Bill 360. This bill puts enforcement provisions of underage access to tobacco products back into the "municipalities". I also support the "penny a pack" provision added to a pack of cigarettes as this will resolve the SYNAR Tobacco Amendment enforcement issues. Passage of this bill will take away the burden of taking the Intoxicate Drivers Supplemental (IDP) fund to solve the SYNAR enforcement issue. It will help the intoxicated driver seek AODA treatment services per statute and not create a highway safety issue.

Sincerely,



Janelle M. Moe
Social Worker II



Preserving the right to live and breathe tobacco free

TO: Senator Judy Robson, Chair
Members, Committee on Human Services and Aging

FROM: Maureen O'Brien, Deputy Director, SmokeFree Wisconsin

DATE: January 23, 2002

RE: support for SB 360,

Thank you for holding a hearing on SB 360.

33.7% of retailers sold tobacco products to minors in a recent compliance check.¹ Unfettered access to tobacco products for minors is a major problem in Wisconsin. It undermines the multi-million dollar efforts to reduce teen smoking. And Wisconsin should be worried – we have one of the highest rates of teen smoking in the country at 36%.²

Reducing youth access to tobacco products is an important component of a comprehensive statewide program to reduce youth smoking. In fact, according to the Centers for Disease Control, 69.4% of middle school current cigarette smokers were not asked to show proof of age when purchasing cigarettes.³ Even if they were asked to show proof of age, middle school smokers were successful 62.4% of the time.⁴

Each year, 19 million packs of cigarettes are sold to Wisconsin children.⁵ The sellers of tobacco products are not self-policing. In fact, the "We Card" program, a public relations stunt, seems to be designed to deflect governmental regulation. Phillip Morris has penalized only 16 out of over 400,000 retailers for selling to children.⁶ If the program were working, one would think that Wisconsin wouldn't be out of compliance with the Synar amendment. It's also hard to believe the tobacco industry would design a program to reduce youth access when 90% of their customers are addicted to nicotine before they turn 18.⁷

¹ Department of Health and Family Services Data, 2000.

² 2000 Youth Tobacco Survey (YTS).

³ Centers for Disease Control and Prevention. *CDC Surveillance Summaries*, November 2, 2001. MMWR 2001;50 (No. SS-4).

⁴ Centers for Disease Control and Prevention. *CDC Surveillance Summaries*, November 2, 2001. MMWR 2001;50 (No. SS-4).

⁵ Estimated from DiFranza, J. & J. Librett, "State and Federal Revenues from Tobacco Consumed by Minors," *American Journal of Public Health (AJPH)* 89(7): 1106-1108 (July 1999) & Cummings, et al., "The Illegal Sale of Cigarettes to US Minors: Estimates by State," *AJPH* 84(2): 300-302 (February 1994), and Wisconsin's youth population and smoking rates.

⁶ Tobacco Institute Discussion Paper, January 29, 1991

⁷ National Household Surveys on Drug Abuse (1998), unpublished data. See, also, HHS, "Preventing Tobacco Use Among Young People: A Report of The Surgeon General" (1994).

If children are unable to find a reliable and convenient source for tobacco, they are much less likely to begin smoking. Studies have shown that enforcement efforts have resulted in a reduction in tobacco sales to minors by 20%.⁸ And other studies show that reduced sales to minors can reduce tobacco use of minors by over 50%.⁹

This bill, SB 360 approaches the compliance check from the right angle, restoring local governments ability to check on sales to minors. We have state patrol visible on our interstates to reduce speeding. We have parking monitors ticket cars with expired meters. We enforce laws and the only way to do that with sales of tobacco to children is to conduct compliance checks, warn and fine the retailer. While the tobacco industry and their supporters will tell you that you should ticket children, it should in no way deflect the real problem: retailers break the law by selling to minors. And retailers, not the clerks need to be held responsible for selling to minors. After all, it's the retailers that hold the license to sell tobacco.

SmokeFree Wisconsin would like to see enforceable, reasonable laws. Wisconsin retailers, especially those who are good, law abiding citizens, shouldn't be burdened by the law, much like citizens who keep their meters plugged and those who drive the speed limit. However, those retailers who break the law ought to be held accountable and be appropriately punished. After all, it's the health and lives of our children at stake.

The Wisconsin Tobacco Control Board (WTCB) would be a reasonable body to work with local governments. However, that arrangement will only work if local governments have the ability to fully enforce the law with penalties, ability to restrict or withdraw licenses and ability to continue stings to determine lawbreakers.

SmokeFree Wisconsin is concerned about the Federal sanctions by Wisconsin being out of compliance. It's our understanding that the penalties require new revenue dedicated to enforcement. The key is not to take from one existing program to fund another.

Moving ahead with this legislation is important, as this is a critical component of a comprehensive statewide program to reduce tobacco use among teens. SmokeFree Wisconsin welcomes discussions with all impacted parties to come up with a reasonable and long-lasting solution so that our youth do not have access to tobacco products through retail establishments. By not having good enforcement of the law, Wisconsin not only has Federal sanctions to deal with, but also the long term burden of another generation of smokers which sap our health care system of much needed dollars which are wasted on our most preventable disease maker: tobacco use.

⁸ Rigotti N.A.; et. al., "The Effect of Enforcing Tobacco Sales Laws on Adolescents' Access to Tobacco and Smoking Behavior," *New England Journal of Medicine* 1997; 337: 1044-1051.

⁹ Jason, L.A.; et. al., "Active Enforcement of Cigarette Control Laws in the Prevention of Cigarette Sales to Minors," *Journal of the American Medical Association* 266; 22: 3159-3161 (December 11, 1991).



January 23, 2002 ²⁶⁹¹ CROSSROADS DRIVE • SUITE 185 • MADISON, WI 53718-7923 • 608/244-7150 • FAX 608/244-9030

To: Senator Robson
Members, Committee on Human Services
and Aging

From: Brandon Scholz

Subject: Testimony SB-360

Thank you for the opportunity to testify this morning on SB-360.

Per the request of the Chair, attached is a copy of my remarks.



January 23, 2002

**Testimony of Brandon Scholz, President, Wisconsin Grocers Association on
SB-360 before the Senate Committee on Human Services and Aging**

Chairwoman Robson, members of the committee, I'm Brandon Scholz, President of the Wisconsin Grocers Association.

We are here today to oppose SB-360 - as introduced in its current form.

As some of you know, there was an effort to improve this bill by making a number of key changes that we felt would be helpful in the effort to reduce youth access to tobacco. These efforts were broken off and have not moved forward.

Before I address those issues, let me first say that today, as the law is written, I do not believe any municipality or community is prevented from conducting compliance checks. One only has to look at the City of Madison to see that they are doing compliance checks within the language of the statutes. Other communities across the state are conducting checks as well.

There are some communities who claim that the current law prevents them from doing tobacco stings. That is simply not the case. All they have to do is get a price of paper from the Dept of Health and Family Services and they are in business. To date, no one has yet to produce a legal analysis citing the statutes that prohibits them from conducting compliance checks.

So, even without this bill, municipalities in Wisconsin can conduct compliance checks even without the state funding they received in prior years.

Now, if we are serious about cutting youth access from tobacco, we need to put in place a number of measures that will continue to put the pressure on retailers to not sell tobacco to minors, but also get to the core of the problem.

In our meeting organized by Senator Roessler to try and improve this bill, we proposed adding the following to add teeth to the law:

- Fine clerks at least \$100 who sell tobacco to minors and maintain the fines imposed on the license holder.
- Fine minors at least \$100 who poses or buy tobacco.
- Establish a statewide in-store training program for clerks to reinforce the prohibitions on selling tobacco to minors.
- Require compliance checks to follow the letter of the law.

Page Two
Scholz Testimony - SB360

It is ironic that the state of Wisconsin takes a less aggressive approach to keeping tobacco out of the hands of minors, yet we go to greater lengths to prevent them from buying a six-pack of beer. We have schools that informally sanction teenage smoking on school grounds because the neighbors complain about tobacco butts in the yard. Kids can't play sports if they get caught drinking, but we don't hear of the same enforcement when it comes to tobacco.

We have proposed fining minors for purchase or possession of tobacco. Yet some claim that this would clog up the local municipal courts and administrators and therefore they oppose it. But, at the same time, they fully support citations for underage drinking. There is an unfortunate disconnect here that must be addressed.

It is my hope that we can find a way to remedy these issues. Thank you for your time this morning.

Briefing Paper

Federal Synar Regulation

1) Background/Description of Issue/Program

Federal Mandate: Federal Synar Amendment (section 1926 of the Public Health Service Act of 1992) and administrative regulation (45 CFR Part 96, Tobacco Regulation for Substance Abuse Prevention and Treatment Block Grants; released in January 1996).

Responsible Federal Agency: U.S. Department of Health and Family Services / Substance Abuse and Mental Health Services Administration (SAMHSA).

Description of the Mandate and Problem: The Synar Regulation requires states to implement strategies to prevent the illegal sale of tobacco products to minors at retail establishments. States must conduct an annual compliance check survey to gauge success in meeting established target goals for a reduction in such sales. Failure to meet target "inspection failure rates" (rate at which merchants sell to minors) or to enforce the statute restricting tobacco sales to minors (s. 134.66, Wis. Stats.) results in significant penalties to the state by reduction of as much as 40 percent of the annual Substance Abuse Prevention and Treatment Block Grant. For Wisconsin, this means a potential penalty of approximately \$9.92 million (of an annual Block Grant allocation of \$24.8 million). Loss of funds that support critical services to substance abuse prevention and treatment is counter-productive. In addition, the Synar requirements are an unfunded mandate. Associated costs for program implementation must be taken from the current Block Grant allocation, which means reduced funding in other areas.

- Since implementation of the Synar Regulation in 1996, Wisconsin has been in compliance with all requirements set forth by SAMHSA.
- We have reported our survey results to SAMHSA each year in our Substance Abuse Prevention and Treatment Block Grant application.
- Reported Inspection Failure Rates and established targets are:

<u>Year</u>	<u>Target</u>	<u>Reported IFR</u>
1996	Baseline	47.7%*
1997	35%	22.6%
1998	30%	27.8%
1999	25%	22.0%
2000	23%	24.6%
2001	22%	33.7%**
2002	20%	---

* Non-scientific estimate.

** The 2001 result puts Wisconsin out of compliance by 11.7%.

Briefing Paper

Federal Synar Regulation

NOTE: Estimates from 1997-2001 are given with a 95% CI ($\pm 3\%$).

2. Issue/Problem

Results and Implications of the 2001 Synar Tobacco Sales Compliance Survey

- A sample of 850 licensed retailers were selected at random. A total of 555 observations (cases) were recorded, with 187 successful cigarette purchases by minors.
- Inspection Failure Rate (IFR) = $187/555 = 33.7\%$
- This result represents a 9.1% increase over the year 2000 IFR of 24.6%

Implications

Wisconsin's target IFR for this year is 22%. We have missed that target by 11.7%. This result puts the State out of compliance with the requirements of the Synar Regulation. We should expect the strong probability of a financial penalty to our Substance Abuse Prevention and Treatment Block Grant allocation.

Penalties

The Synar Regulation calls for a 40 percent penalty to the Substance Abuse Prevention and Treatment (SAPT) Block Grant allocation for a State found in violation of the requirements of the Regulation. For Wisconsin, this would mean a penalty of approximately \$9.92 million.

However, SAMHSA has been utilizing an "alternative penalty" formula to assess penalties for States found out of compliance. In a letter to the Governor of Michigan, SAMHSA spells out the policy:

"Section 214 of the Omnibus Consolidated Appropriations Act (P.L. 106-554) provides that funds appropriated by the Act may not be used to withhold substance abuse funding from a State pursuant to section 1926 (Synar Amendment) if that "State certifies to the Secretary of Health and Human Services by March 1, 20__ that the State will commit additional State funds...to ensure compliance with State laws prohibiting the sale of tobacco products to individuals under 18 years of age."

In effect, this allows a State to avoid a potential 40 percent reduction in its SAPT Block Grant award by certifying the following:

Briefing Paper

Federal Synar Regulation

- **That the State will commit additional funds equal to one percent of the State's SAPT Block Grant award for each percentage point by which the State has missed its established retailer noncompliance target rate.**
- **That the State will maintain State expenditures for tobacco prevention and compliance activities at a level that is not less than the level of such expenditures maintained by the State in the current year, and adding to that level the additional funds required under section 214."**

For Wisconsin, this will mean an 11.7% penalty (or approximately \$2.925 million). This will be an "either/or" proposition... Wisconsin will either commit the additional funds or be penalized the full 40 percent (\$9.92 million) of the Block Grant.

THE FACT IS.....

The SAMHSA regulation maintains the objective of reducing the sale of tobacco products to minors, while providing latitude and support for State implementation.

IMPLEMENTING THE SAMHSA TOBACCO REGULATION FOR THE SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT

Today, the Department of Health and Human Services (HHS) submitted for publication the final regulation implementing section 1926 of the Public Health Service (PHS) Act prohibiting the sale or distribution of tobacco products to minors.

After considering the comments received from the health community, State agencies, and tobacco product manufacturers and retailers, the Secretary finalized the Substance Abuse and Mental Health Services Administration (SAMHSA) regulation as one key step in a strategic Administration-wide approach to reducing youth tobacco use.

KEY REQUIREMENTS OF THE REGULATION

The SAMHSA regulation implementing the Synar Amendment requires the State¹ to:

- Have in effect a law prohibiting any manufacturer, retailer or distributor of tobacco products from selling or distributing such products to any individual under the age of 18.
- Enforce such laws in a manner that can reasonably be expected to reduce the extent to which tobacco products are available to individuals under the age of 18.
- Conduct annual random, unannounced inspections to ensure compliance with the law. These inspections are to be conducted in such a way as to provide a valid sample of outlets accessible to youth.
- Develop a strategy and timeframe for achieving an inspection failure rate of less than 20% of outlets accessible to youth.

¹The term "State" refers to each of the 50 States, District of Columbia and U.S. Jurisdictions.

- Submit an annual report detailing the State's activities to enforce their law, the overall success the State has achieved during the previous fiscal year (FY) in reducing tobacco availability to youth, describing how inspections were conducted and the methods to identify outlets, and plans for enforcing the law in the coming fiscal year.

The Secretary is required by statute to withhold all funds from States that have not enacted the required prohibitions and to decrease the annual Substance Abuse Prevention and Treatment (SAPT) Block Grant award for States that do not comply with the enforcement and reporting requirements.

State Statute

States were required in their first applicable fiscal year², and all subsequent fiscal years, to have in place a law prohibiting the sale or distribution of tobacco products to minors.

All States were in compliance with this requirement for FY 1995. The Department will continue to review revisions to States' laws on an annual basis.

Enforcement

The Department will allow States the needed flexibility in determining which strategies are most appropriate for meeting the compliance standards and enforcement requirements of the regulation. States may implement tobacco licensing of retailers and penalties/fines. They are, however, not required to do so.

The Department requires that the State designate an agency within the State to be responsible for implementing the State law. Enforcement of the law may be done by enforcement agencies, Single State Agencies for Substance Abuse Prevention and Treatment (SSAs), State Health Departments, private entities or a combination of these and other organizations.

Inspections

For the first two applicable fiscal years, States must conduct a reasonable number of random, unannounced inspections of outlets (both over-the-counter and vending machines) to ensure compliance with the law.

²The first applicable fiscal year refers to the first fiscal year for which the State was required to have a statute making it unlawful to sell or distribute tobacco products to minors. For most States, the first applicable fiscal year was FY 1994. For those States whose legislatures did not convene in either 1993 or 1994 of which there are seven, the first applicable fiscal year was FY 1995.

For the third applicable and all subsequent fiscal years, States will conduct random, unannounced inspections of outlets that represent a probability sample of outlets accessible to youth. The sample must reflect the distribution of the population under age 18 throughout the State and the distribution of outlets throughout the State. Table I depicts the inspection requirements.

The regulation does not require the use of "stings," (i.e., use of minors in inspections). This method has been found to be effective and efficient. States are free to use other methods for performing inspections. However, the Department strongly urges any State that intends to use an alternative method to work with the Department in advance of implementation to show that the method validly measures compliance through random, unannounced inspections, and ensures that the inspection approach will produce the data necessary to determine that the State meets the compliance standard.

The State will not be required to conduct targeted inspections of outlets that failed under previously random, unannounced inspections. However, targeted inspections are an appropriate method of controlling youth access to tobacco products and may be considered by the Secretary in making a determination if a State is found to be in substantial compliance with the inspection failure rate.

TABLE I: Timing of Inspection Requirements

States whose legislature met in 1993 and 1994:

States whose legislature did not meet in both 1993 and 1994:

Year for Implementing Requirement	REQUIREMENT	Year for Implementing Requirement
1994	Conduct reasonable number of RUI's *	1995
1995	Conduct reasonable number of RUI's	1996
1996 and all subsequent fiscal years	Conduct RUI's using probability sample	1997 and all subsequent fiscal years

* - Random, unannounced inspections

Sampling Design

The design of the sampling method scheduled for the third and subsequent fiscal years requires a method for providing a probability sample of outlets accessible to youth. The sample must reflect the distribution of the population under age 18 throughout the State and the distribution of outlets that are accessible to youth throughout the State. In identifying outlets that are accessible to youth, States may want to take into consideration characteristics such as their proximity to gathering places for youth. For additional information on Sample Design, see Section VII, of the CDC Stop The Sale: Prevent The Addiction. A Program Guide for Reducing Youth Access (1995).

States with complete centralized license lists can use these lists as a sampling frame. Other States can utilize commercial business lists that can be purchased from a variety of sources. These lists may not reflect the total universe of tobacco outlets and, therefore, may need to be supplemented. For additional information on Compliance Checks, see Section VI of the CDC program guide.

Developing Compliance Strategy

States must present to the Secretary as part of their fourth applicable fiscal year application, interim performance targets for achieving in the future a maximum inspection failure rate of 20%. As a baseline the State should use the results of the random, unannounced inspections conducted during the previous fiscal year. Although a target date for all States achieving the 20% rate has not been set, each State will be expected to submit and negotiate a reasonable strategy for achieving this goal over several years.

Reporting Schedule

States in their first applicable fiscal year application for funds were required to: 1) submit a copy of the State law regarding the sale or distribution of tobacco products to minors; and 2) explain what activities they would undertake during their second applicable fiscal year to enforce the law.

In their second and third applicable fiscal year applications, States were or are required to submit the following: 1) a copy of any changes made to their tobacco law; 2) a summary of their enforcement efforts during the previous fiscal year; 3) the results of the random unannounced inspections conducted during the previous fiscal year; and 4) a summary of the success that the State has had in reducing the availability of tobacco products to minors.

For the fourth and all subsequent fiscal year applications, States must submit the following: 1) a copy of any changes made to their tobacco law; 2) a summary of their enforcement efforts during the previous fiscal year; 3) the results of the random unannounced inspections conducted during the previous fiscal year; 4) a summary of the success that the State has had in reducing the availability of tobacco products to minors; 5) a description of how they conducted their random, unannounced inspections including a description of their sampling design; and 6) their strategy, timelines and yearly milestones for achieving in the future an inspection failure rate of 20 percent.

Costs and Financing of Compliance

The primary costs of complying with this regulation involve expenses for inspection and enforcement. While no data are available regarding the cost of enforcement, the Department does not believe these costs need to be substantial. The cost of statewide inspections would vary by State. Costs will decrease as compliance reaches 100%, because there will be fewer violations and fewer enforcement actions necessary. State costs would also decrease if the FDA proposed regulations take effect, since the FDA tobacco rules would make it easier for States to enforce State youth access laws. In addition, SAMHSA has modified the regulation to allow use of SAPT Block Grant prevention setaside funds to pay for the costs associated with developing a sampling mechanism and conducting random, announced, inspections. States may not use SAPT Block Grant funds for other enforcement activities.

States may use funds from the Centers for Disease Control and Prevention's (CDC) Preventive Health and Health Services Block Grant for sample design, inspections and other enforcement purposes.

States may also implement a system of self-financing licensure, and civil penalty system as a method of offsetting the costs of retailer inspections.

Penalties for Non-Compliance

In order to be eligible for SAPT Block Grant funds, all States must have a law prohibiting the sale or distribution of tobacco products to minors.

If the Secretary determines that a State did not comply with the enforcement stipulated in this regulation, the statute (42 USC 300X-26(c)) requires the Secretary to reduce by 10 percent that State's SAPT Block Grant allotment for non-compliance in their first applicable fiscal, 20 percent for noncompliance in their second applicable fiscal year, 30 percent for noncompliance in their third applicable year and 40 percent for non compliance in their fourth and all subsequent fiscal years. For most States FY 1997 is their fourth applicable fiscal year.

FOR FURTHER INFORMATION

Detailed information on prevention strategies for youth access to tobacco products can be found in the Centers for Disease Control and Prevention's, Stop The Sale: Prevent The Addiction Program Guide for Reducing Youth Access to Tobacco (1995).

[Federal Register Citation]

For more information regarding this regulation, please refer to "Tobacco Regulation for Substance Abuse Prevention and Treatment Block Grant -- Final Rule" published by the Department of Health and Human Services, Substance Abuse and Mental Health Services Administration.

Prakash L. Grover, Ph.D.
Acting Director, Division of State Prevention Systems
Center for Substance Abuse Prevention (CSAP)
Substance Abuse & Mental Health Services Administration
Rockwall II Building, 10th Floor
5600 Fishers Lane
Rockville, MD 20857
(301) 443-7942

**CY 2002 Substance Abuse Block Grant County
and Statewide Program Specific Reduction Estimates**

<u>County</u>	<u>2002 SABG Budget</u>	<u>40%Cut</u>	<u>Balance</u>
Adams	\$ 34,248	\$ 13,699	\$ 20,549
Ashland	\$ 28,276	\$ 11,310	\$ 16,966
Barron	\$ 79,713	\$ 31,885	\$ 47,828
Bayfield	\$ 35,262	\$ 14,105	\$ 21,157
Brown	\$ 465,279	\$ 186,112	\$ 279,167
Buffalo	\$ 23,204	\$ 9,282	\$ 13,922
Burnett	\$ 28,760	\$ 11,504	\$ 17,256
Calumet	\$ 46,328	\$ 18,531	\$ 27,797
Chippewa	\$ 96,341	\$ 38,536	\$ 57,805
Clark	\$ 55,026	\$ 22,010	\$ 33,016
Columbia	\$ 77,128	\$ 30,851	\$ 46,277
Crawford	\$ 32,086	\$ 12,834	\$ 19,252
Dane	\$ 2,618,206	\$ 1,047,282	\$ 1,570,924
Dodge	\$ 111,966	\$ 44,786	\$ 67,180
Door	\$ 46,219	\$ 18,488	\$ 27,731
Douglas	\$ 110,750	\$ 44,300	\$ 66,450
Dunn	\$ 107,714	\$ 43,086	\$ 64,628
Eau Claire	\$ 519,446	\$ 207,778	\$ 311,668
Florence	\$ 8,512	\$ 3,405	\$ 5,107
Fond du Lac	\$ 182,892	\$ 73,157	\$ 109,735
Forest/Oneida/Vilas	\$ 325,754	\$ 130,302	\$ 195,452
Grant & Iowa	\$ 107,759	\$ 43,104	\$ 64,655
Green	\$ 45,365	\$ 18,146	\$ 27,219
Green Lake	\$ 32,340	\$ 12,936	\$ 19,404
Iron	\$ 7,985	\$ 3,194	\$ 4,791
Jackson	\$ 39,385	\$ 15,754	\$ 23,631
Jefferson	\$ 109,299	\$ 43,720	\$ 65,579
Juneau	\$ 42,890	\$ 17,156	\$ 25,734
Kenosha	\$ 715,331	\$ 286,132	\$ 429,199
Kewaunee	\$ 26,797	\$ 10,719	\$ 16,078
La Crosse	\$ 270,793	\$ 108,317	\$ 162,476
La Fayette	\$ 22,055	\$ 8,822	\$ 13,233
Lincoln/Langlade/Marathon	\$ 303,162	\$ 121,265	\$ 181,897
Manitowoc	\$ 140,547	\$ 56,219	\$ 84,328
Marinette	\$ 75,173	\$ 30,069	\$ 45,104
Marquette	\$ 23,939	\$ 9,576	\$ 14,363
Menominee	\$ 41,427	\$ 16,571	\$ 24,856
Milwaukee	\$ 5,823,075	\$ 2,329,230	\$ 3,493,845
Monroe	\$ 71,115	\$ 28,446	\$ 42,669
Oconto	\$ 48,966	\$ 19,586	\$ 29,380
Outagamie	\$ 311,259	\$ 124,504	\$ 186,755
Ozaukee	\$ 85,354	\$ 34,142	\$ 51,212
Pepin	\$ 11,569	\$ 4,628	\$ 6,941
Pierce	\$ 51,163	\$ 20,465	\$ 30,698
Polk	\$ 68,628	\$ 27,451	\$ 41,177
Portage	\$ 240,341	\$ 96,136	\$ 144,205
Price	\$ 19,379	\$ 7,752	\$ 11,627
Racine	\$ 695,171	\$ 278,068	\$ 417,103
Richland	\$ 32,819	\$ 13,128	\$ 19,691

**CY 2002 Substance Abuse Block Grant County
and Statewide Program Specific Reduction Estimates**

Rock	\$	835,033	\$	334,013	\$	501,020
Rusk	\$	30,407	\$	12,163	\$	18,244
St. Croix	\$	70,176	\$	28,070	\$	42,106
Sauk	\$	82,089	\$	32,836	\$	49,253
Sawyer	\$	50,066	\$	20,026	\$	30,040
Shawano	\$	73,720	\$	29,488	\$	44,232
Sheboygan	\$	178,215	\$	71,286	\$	106,929
Taylor	\$	31,092	\$	12,437	\$	18,655
Trempealeau	\$	43,091	\$	17,236	\$	25,855
Vernon	\$	44,268	\$	17,707	\$	26,561
Walworth	\$	243,911	\$	97,564	\$	146,347
Washburn	\$	27,842	\$	11,137	\$	16,705
Washington	\$	131,927	\$	52,771	\$	79,156
Waukesha	\$	649,473	\$	259,789	\$	389,684
Waupaca	\$	80,798	\$	32,319	\$	48,479
Waushara	\$	37,207	\$	14,883	\$	22,324
Winnebago	\$	269,227	\$	107,691	\$	161,536
Wood	\$	128,562	\$	51,425	\$	77,137
County Subtotal	\$	17,503,300	\$	7,001,320	\$	10,501,980
Statewide Programs						
Tribes	\$	467,674	\$	187,070	\$	280,604
Dept. of Corrections	\$	1,649,200	\$	659,680	\$	989,520
WI Cert. Board	\$	121,500	\$	48,600	\$	72,900
UW Board of Regents	\$	157,900	\$	63,160	\$	94,740
Brighter Futures Initiative	\$	1,575,000	\$	630,000	\$	945,000
Administration	\$	148,267	\$	59,307	\$	88,960
Operations	\$	986,233	\$	394,493	\$	591,740
DOH HIV Life Care Services	\$	74,000	\$	29,600	\$	44,400
DOH HIV Prevention	\$	75,000	\$	30,000	\$	45,000
Rural/Urban Women's Projects	\$	1,776,850	\$	710,740	\$	1,066,110
Grand Total	\$	24,534,924	\$	9,813,970	\$	14,720,954

1) 45 percent (or \$1,575,000) of Brighter Futures dollars are from the Substance Abuse Block Grant. The funds go to 9 counties and all tribes.

2) The statewide rural/urban womens allocation for 2002 is \$2,167,900 of which \$1,776,850 is Block Grant. The remainder of \$391,050 is from DAPIS program revenue.

2001 IDP Supplemental Funding Request Award

		State Projected		Application		2000		2001			
		Program Cost		Program Cost 2001		Revenue Collected		Requested Funding		Award	
		2001									
Northern	2	\$	46,847	\$	81,576	\$	22,699.00	\$	60,191	\$	-
Northeastern	8	\$	36,491	\$	36,814	\$	29,270.00	\$	8,814	\$	3,300
Western	10	\$	84,133	\$	64,575	\$	37,972.00	\$	20,411	\$	20,411
Northeastern	15	\$	50,486	\$	88,642	\$	94,146.00	\$	70,000	\$	5,200
Northern	21	\$	788,665	\$	515,000	\$	194,257.00	\$	346,000	\$	346,000
Northern	26	\$	11,079	\$	15,552	\$	5,949.00	\$	8,162	\$	6,531
Southern	29	\$	90,723	\$	75,000	\$	64,097.00	\$	7,000	\$	7,000
Northeastern	31	\$	195,992	\$	102,964	\$	47,401.00	\$	53,548	\$	53,548
Northern	34	\$	188,592	\$	533,400	\$	352,031.00	\$	239,300	\$	-
Northeastern	38	\$	153,041	\$	187,222	\$	177,033.00	\$	68,087	\$	-
Northeastern	39	\$	43,677	\$	59,588	\$	39,312.00	\$	25,308	\$	25,308
Northeastern	72	\$	18,732	\$	14,058	\$	11,758.00	\$	5,270	\$	5,270
Southeastern	40	\$	-	\$	659,422	\$	561,317.00	\$	89,898	\$	-
Western	41	\$	142,409	\$	65,117	\$	70,904.00	\$	15,189	\$	-
Western	47	\$	121,555	\$	198,245	\$	49,886.00	\$	143,890	\$	143,890
Northern	49	\$	140,578	\$	191,020	\$	117,320.00	\$	160,047	\$	-
Northern	50	\$	16,508	\$	48,771	\$	25,365.00	\$	19,112	\$	-
Southern	53	\$	1,030,543	\$	449,798	\$	345,887.00	\$	80,904	\$	-
Southeastern	66	\$	643,424	\$	263,237	\$	223,791.00	\$	25,286	\$	-
Northern	71	\$	119,148	\$	95,000	\$	66,739.00	\$	19,973	\$	19,973
		\$	3,922,623	\$	3,745,001	\$	2,537,134.00	\$	1,466,390	\$	636,431

*third party collections average 38%
 Recommend collection of at least 15%

Vote Record

Senate - Committee on Human Services and Aging

Date: 1/31/02

Bill Number: SB 360

Moved by: Roessler

Seconded by: Robson

Motion: _____

passage as amended

Committee Member

Sen. Judith Robson, Chair

Sen. Gwendolynne Moore

Sen. Robert Wirch

Sen. David Hansen

Sen. Carol Roessler

Sen. Robert Welch

Sen. Ted Kanavas

Aye

No

Absent Not Voting

Totals:

Motion Carried

Motion Failed

Vote Record

Senate - Committee on Human Services and Aging

Date: 1/31/02
 Moved by: Roessler Seconded by: Robson
 AB: _____ SB: 360 Clearinghouse Rule: _____
 AJR: _____ SJR: _____ Appointment: _____
 AR: _____ SR: _____ Other: _____

A/S Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____
 A/S Sub Amdt: LRBs 0302/1/02 DA
 A/S Amdt: _____ to A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____ to A/S Sub Amdt: _____

Be recommended for:

- | | |
|--|--|
| <input type="checkbox"/> Passage | <input type="checkbox"/> Indefinite Postponement |
| <input checked="" type="checkbox"/> Introduction | <input type="checkbox"/> Tabling |
| <input checked="" type="checkbox"/> Adoption | <input type="checkbox"/> Concurrence |
| <input type="checkbox"/> Rejection | <input type="checkbox"/> Nonconcurrence |
| | <input type="checkbox"/> Confirmation |

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Sen. Judith Robson, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gwendolynne Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Robert Wirsch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. David Hansen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Carol Roessler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Robert Welch	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> <i>DA</i>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Ted Kanavas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: _____

SB 360 - substitute amendment
 LRBs 0302/1/02 DA

Motion Carried

Motion Failed

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www.lungusa.org



FACSIMILE TRANSMISSION

TO: Senator Judy Ravson

COMPANY: _____

FAX NO: 608-267-5171

DATE: 1/29/02

FROM: Dora Winiwsky

This fax contains 3 page(s), including the cover sheet.

COMMENTS:

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January 28, 2002

To: The Honorable Senators
Judy Robson, Chair
Gwendolyn Moore
Robert Wirsch
Dave Hansen
Peggy Rosenzweig
Carol Roessler
Robert Welch, Senate Committee on Human Services and Aging

From: Dona Wininsky, Public Policy Director

Re: SB360

I am writing to express the full support of the American Lung Association of Wisconsin for SB 360. Regrettably, other commitments prevented me from attending your recent hearing on this bill, so please let this letter serve as testimony from the Lung Association.

We support **local communities'** right to conduct retail tobacco compliance checks because they are an extremely effective, cost efficient means of limiting underage tobacco purchases. Until 1999, several Wisconsin communities had been routinely conducting such operations and demonstrated compliance rates significantly higher than in communities where no such program existed. When the programs shut down, due to a change in state law, those gains were quickly lost.

To cite just one example, the city of Madison has seen illegal purchases increase from low of 18 percent in 1999, back up to 31 percent by the end of 2001.

The state's most recent effort to conduct the checks through DHFS has been, for the most part, largely ineffective, with Madison reporting a 28 percent "sell rate" under the state program.

What's more, the state is losing millions of dollars of federal aid by being out of compliance with the federal Synar laws. In these tight budget times, we can't afford to write off up to \$10 million.

Finally, the fiscal estimate supplied to your committee indicates that this legislation carries no costs on either the state or local level. In short, we believe there is absolutely no reasonable argument for not supporting SB 360 and many reasons to recommend it.

We've all heard the old saying, "If it ain't broke, don't fix it." Unfortunately, someone saw fit in 1999 to "fix" a highly successful tobacco prevention program. Since then, youth smoking and purchase rates have risen and Wisconsin is being penalized financially.

Please go back and undo the "fix" by giving back local communities the authority to conduct their own tobacco compliance checks. Please support SB 360.