
BEE EDITORIALS

**Hooking Children:
Massachusetts is in the
Supreme Court to keep
cigarette ads away from
kids.**

By Stephen D. Sugarman

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In San Diego, convenience stores near schools don't plaster cigarette ads on their windows, so children aren't subject to a blitz of pro-smoking advertising on their way to class or when they go into those stores during lunch and after school.

Public health officials in Boston want similar restrictions. They don't like kids enticed into illegally buying tobacco products and getting hooked before they can make a competent judgment about the enormous risk to their future health. But the tobacco industry has sued to prevent implementation of Massachusetts regulations that would keep tobacco ads away from places near where children congregate.

Today, the U.S. Supreme Court will hear that case, and its decision probably will decide the fate not only of that state's law, but also the laws of nearly 100 other local governments across the nation.

Cigarette-makers proclaim they already have agreed to halt most billboard advertising -- a concession wrung from them in the Master Settlement Agreement reached in 1998 with 46 state attorneys general. But there's a lot that tobacco companies didn't agree to. Not only are storefront and inside-store ads still allowed, but the industry also is trying to wriggle around what it agreed to in the settlement.

When Pennsylvania retailers posted smoking advertising on billboards, tobacco manufacturers said that was not their responsibility. R.J. Reynolds claims that it can advertise its sponsorship of the NASCAR Winston Cup on signs near racetracks pretty much year-round.

The tobacco industry and its partners say that they have a constitutional right to advertise cigarettes on stores and billboards directly across from elementary, middle and high schools. When parents band together to pass laws to have the ads moved, tobacco sellers say that their ads are not misleading, and that this "commercial speech" should be treated no differently from political ads.

They insist they are advertising to adult smokers, trying to get them to switch from one brand to another. Yet public health research demonstrates that what the cigarette companies have long understood: A huge majority of adult smokers start as children, and only a small share of their customers join the ranks once they are old enough to know better. To keep the industry going strong, tobacco sellers must attract new customers who are teens, or younger.

Local control is what the cigarette companies fear most. Those governments have succeeded in adopting strict clean indoor air laws that protect people from secondhand smoke. Local activism is what the tobacco industry is trying to stop in the Massachusetts case.

Tobacco companies are asserting that federal law prevents local communities from restricting their advertising in places near where children gather. The law requiring tobacco companies to give the warnings we see on cigarette ads does say that states and cities may not require additional warnings. But the Supreme Court decided that states can allow citizens to sue the industry for lying to consumers about the health risks of tobacco. Those lawsuits would not require companies to give additional warnings, but rather they seek to prevent additional warnings, but rather they seek to prevent a traditional form of wrongdoing -- consumer fraud.

Laws that keep tobacco ads away from child-intensive areas are similar. They too don't require additional warnings, but seek to prevent a traditional form of wrongdoing -- exploitation of the inexperience and immaturity of the young.

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