

103^D CONGRESS
2^D SESSION

H. R. 4279

To require studies by the Federal Trade Commission of whether tobacco advertisements target women and minorities to promote smoking, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 21, 1994

Ms. ROYBAL-ALLARD (for herself, Mrs. COLLINS of Illinois, Mrs. UNSOELD, Ms. Harman, Ms. SCHENK, Ms. WATERS, Mr. DURBIN, Mr. FOGLIETTA, Ms. FURSE, Mr. TORRES, Mr. SERRANO, Mrs. MINK, Mr. UNDERWOOD, Ms. ESHOO, Mr. DELLUMS, Mr. ROMERO-BARCELÓ, Mr. SYNAR, and Ms. SHEPHERD) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To require studies by the Federal Trade Commission of whether tobacco advertisements target women and minorities to promote smoking, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Tobacco Advertising
5 and Promotion Studies Act of 1994”.

1 **SEC. 2. FINDINGS.**

2 (a) ADVERTISING.—The Congress makes the follow-
3 ing findings respecting advertising of tobacco products:

4 (1) The tobacco industry spends over \$4 billion
5 annually to advertise and promote cigarette prod-
6 ucts.

7 (2) Since 1964, the tobacco industry has had a
8 voluntary advertising code which it claims was im-
9 plemented to sufficiently ensure against children and
10 teenagers being encouraged to smoke cigarettes and
11 which, according to the tobacco industry, prohibits
12 the advertising of cigarette products from making
13 implied or direct health claims.

14 (3) The voluntary advertising code which the
15 tobacco industry claims is a sufficient safeguard
16 against improper advertising and marketing prac-
17 tices recommends that cigarette advertising shall not
18 suggest that cigarette smoking is “essential” to sex-
19 ual attraction, success, sophistication, or good health
20 and that models in cigarette advertisements shall be
21 at least 25 years of age and shall not be made to
22 appear under such age.

23 (4) Despite the existence of, and alleged compli-
24 ance by the tobacco industry with, the voluntary ad-
25 vertising code, a number of studies have shown that
26 cigarette advertising may be an important factor in

1 encouraging youth, women, and minorities to take
2 up the cigarette smoking habit and may reinforce
3 decisions to continue to smoke.

4 (b) WOMEN.—The Congress makes the following
5 findings respecting women and tobacco:

6 (1) The fastest growing sector of smokers in
7 the United States are women under the age of 23.
8 Approximately 2,000 girls and young women smoke
9 their first cigarette every day.

10 (2) It is expected that between the years 2005
11 and 2010, the number of women dying from smok-
12 ing related diseases will exceed the number of men
13 so dying.

14 (3) Each year tobacco kills more than 147,000
15 women in the United States, mostly through ciga-
16 rette smoking induced heart disease, lung cancer,
17 and other lung diseases.

18 (4) As smoking by women has increased, lung
19 cancer in women has skyrocketed. In 1987 lung can-
20 cer surpassed breast cancer as the leading cancer
21 killer of women.

22 (5) Women who smoke as little as 1 to 4 ciga-
23 rettes each day increase their risk of heart attack by
24 2 to 3 times.

1 (6) In 1991 for the first time in more than a
2 decade the prevalence of smoking among women ac-
3 tually increased rather than decreased.

4 (7) Women who smoke cigarettes during preg-
5 nancy increase the risk for low birth weight and pre-
6 mature infants, miscarriage, stillbirths, sudden in-
7 fant death syndrome, and infant mortality.

8 (8) Pregnant women who smoke deliver babies
9 an average of one-half inch shorter and 7 ounces
10 lighter than the babies of nonsmoking mothers.
11 There is a 25 to 50 percent higher rate of fetal and
12 infant death among women who smoke during preg-
13 nancy compared with those who do not smoke. It is
14 estimated that 4,000 infants die each year because
15 of their mother's smoking.

16 (9) Approximately 44 percent of all women who
17 currently smoke have attempted to quit smoking in
18 the past year.

19 (10) Cigarette smoking increases women's risk
20 of contracting cervical cancer.

21 (c) MINORITIES.—The Congress makes the following
22 findings respecting minorities and tobacco:

23 (1) Tobacco use by African-Americans is re-
24 sponsible for nearly 48,000 deaths each year in the
25 United States.

1 (2) Tobacco companies aggressively target
2 members of the African-American community and
3 the growing Hispanic population, particularly in the
4 urban, inner-city environment.

5 (3) As of 1991, 29.2 percent of African-Amer-
6 ican adults (aged 18 and older) smoked cigarettes,
7 including 35.1 percent of African-American men and
8 24.4 percent of African-American women.

9 (4) As of 1991, 16 percent of Asian/Pacific Is-
10 lander adults (aged 18 and older) smoked cigarettes,
11 including 24.2 percent of Asian/Pacific Islander men
12 and 7.5 percent of Asian/Pacific Islander women.

13 (5) As of 1991, 31.4 percent of American In-
14 dian/Alaskan Natives adults (aged 18 and older)
15 smoked cigarettes, including 27.9 percent of Amer-
16 ican Indian/Alaskan Natives men and 35.2 percent
17 of American Indian/Alaskan Natives women.

18 (6) As of 1991, 20.2 percent of Hispanic adults
19 (aged 18 and older) smoked cigarettes, including
20 25.2 percent of Hispanic men and 15.5 percent of
21 Hispanic women.

22 (7) African Americans suffer from tobacco-re-
23 lated disease at a higher rate than whites, including
24 a higher incidence of respiratory system, esophagus,
25 and oral cavity cancers.

1 (8) Lung cancer is increasing among Hispanic
2 men.

3 **SEC. 3. TOBACCO ADVERTISING STUDIES.**

4 (a) STUDIES.—The Federal Trade Commission shall
5 conduct the following studies which should be based on
6 existing studies and on significant original market
7 research:

8 (1) WOMEN AND MINORITIES.—A study of cur-
9 rent tobacco advertising to determine—

10 (A) if and in what forms such advertising
11 and promotion uses themes, graphics, and tech-
12 niques which are likely to appeal specifically to
13 (i) girls and women and (ii) minorities in ways
14 that make smoking attractive to them, and

15 (B) whether targeting girls, women, and
16 minorities increases tobacco use.

17 In connection with such study, advertising of alco-
18 holic beverages shall be reviewed to determine the
19 extent to which such advertising targets girls and
20 women and minorities.

21 (2) WEIGHT LOSS AND MAINTENANCE.—

22 (A) IN GENERAL.—A study of current cig-
23 arette advertising and promotion to investigate
24 the targeting of girls and women in cigarette
25 advertising and promotion and tobacco compa-

1 nies' use of messages in their advertising and
2 promotion, explicitly or implicitly, concerning
3 weight loss and weight maintenance, the word-
4 ing and overall imagery used in such advertis-
5 ing and promotion and its impact on girls and
6 women, and the perception of girls and women,
7 including smokers and non-smokers, of the rela-
8 tion between the use of tobacco and weight con-
9 trol and maintenance.

10 (B) TERMS AND IMAGERY.—In conducting
11 the study under subparagraph (A), the Federal
12 Trade Commission shall examine the following:

13 (i) Whether women interpret the use
14 of the terms “slim”, “light”, “thin”,
15 “superslim”, and related terms and the
16 shape of cigarettes employing such terms
17 as implying that cigarette smoking results
18 in weight loss or weight maintenance.

19 (ii) Whether girl's and women's inter-
20 pretation of such terms and imagery accu-
21 rately reflects the actual effect of cigarette
22 smoking on weight. In particular, whether
23 girls and women are knowledgeable about
24 the transient and reversible nature of any
25 smoking induced weight loss, the precise

1 magnitude of weight loss which may be ex-
2 perience upon the taking up of smoking,
3 and the precise magnitude of weight gain
4 which may be experienced upon smoking
5 cessation.

6 (iii) The relative impact of cigarette
7 smoking on the health of girls and women
8 and whether or not girls and women are
9 knowledgeable about the impact of smok-
10 ing on their health.

11 (iv) Whether the Federal Trade Com-
12 mission has authority to take action with
13 respect to advertising and promotion using
14 such terms and imagery.

15 (v) To the extent that the Federal
16 Trade Commission does not have the au-
17 thority to take needed action, what legisla-
18 tion is needed to enable the Commission to
19 take action necessary to fully remedy the
20 study's findings.

21 (3) LOW YIELD TOBACCO PRODUCTS.—

22 (A) IN GENERAL.—A study of current cig-
23 arette advertising and promotion to investigate
24 the apparent targeting of girls and women and
25 tobacco companies use of messages concerning

1 so called low tar/low nicotine cigarettes (here-
2 after in this paragraph referred to as “low yield
3 cigarettes”). This shall include the wording and
4 overall imagery used in advertising and pro-
5 motion for low yield cigarettes and the impact
6 of such advertising and promotion on both male
7 and female user’s perception of the relative risk
8 of smoking such cigarettes as opposed to the
9 smoking of non low yield cigarettes or quitting
10 smoking.

11 (B) TERMS.—In conducting the study
12 under subparagraph (A), the Federal Trade
13 Commission shall examine the following:

14 (i) Whether men and women tend to
15 interpret messages and imagery used in
16 the advertising and promotion of low yield
17 cigarettes to indicate that smoking such
18 cigarettes is less hazardous than smoking
19 other cigarettes. The Commission shall
20 look at consumer’s perception of a wide
21 range of health risks, including cardio-
22 vascular disease, lung and other cancers,
23 pulmonary diseases, risks during preg-
24 nancy, risk of environmental tobacco
25 smoke exposure to surrounding individuals,

1 and other risks and attempt to quantify
2 the degree of risk reduction perceived by
3 the reasonable consumer. In addition, the
4 Commission shall examine whether the per-
5 ception of male and female smokers differ
6 in this regard.

7 (ii) Whether men's and women's inter-
8 pretation of the wording and imagery used
9 in advertising and promotion of low yield
10 cigarettes, as determined under clause (i),
11 accurately reflects the health hazards of
12 cigarettes.

13 (iii) Whether men and women who
14 smoke are likely to be influenced to smoke
15 low yield cigarettes rather than quit smok-
16 ing because of the advertising and pro-
17 motion of such cigarettes. In this regard,
18 the Commission shall examine whether
19 smokers tend to differ according to wheth-
20 er or not they report being concerned
21 about smoking's negative impact on their
22 health and whether male and female smok-
23 ers tend to differ from each other in this
24 regard.

1 (iv) The relative likely impact of
2 smoking of low yield cigarettes on men's
3 and women's health relative to quitting
4 smoking.

5 (v) Whether the Federal Trade Com-
6 mission has the authority to take action
7 with respect to advertising and promotion
8 of low yield cigarettes.

9 (vi) To the extent that the Commis-
10 sion does not have the authority to take
11 needed action, what legislation is needed to
12 enable the Commission to take action nec-
13 essary to fully remedy the study's findings.

14 (4) DEMOGRAPHICS.—

15 (A) IN GENERAL.—A study of the demo-
16 graphics of targeted audiences of cigarette ad-
17 vertising and promotions which appear to be
18 targeted at girls, women, and minorities, includ-
19 ing the age, gender, race, ethnicity, and socio-
20 economic groups of the girls, women, and mi-
21 norities and, in the case of minorities, the de-
22 mographics of such advertising and promotions
23 for smokeless tobacco products.

1 (B) FOCUS.—In conducting the study
2 under subparagraph (A), the Federal Trade
3 Commission shall identify—

4 (i) the media used to apparently tar-
5 get the groups described in subparagraph
6 (A), including the types of publications
7 used with their demographic profile, in-
8 cluding the demographic profile of readers
9 under the age of 18,

10 (ii) the types of promotions used, giv-
11 ing information about specific venues, and

12 (iii) the amount of money spent in
13 each category.

14 (b) REPORT.—The Federal Trade Commission shall
15 complete each of the studies identified in subsection (a)
16 not later than 9 months after the date of the enactment
17 of this Act and shall, not later than 12 months after such
18 date, report to the Congress—

19 (1) the results of such studies,

20 (2) whether the Federal Trade Commission has
21 the authority to take action on the study's findings,

22 (3) any actions the Commission proposes to
23 take on the basis of such findings, and

24 (4) to the extent that the Commission does not
25 have the authority to take needed action, what legis-

- 1 lation is needed to enable the Commission to take
- 2 action necessary to fully remedy the study's findings.

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