

Baltimore Sun

Leaping through billboard loophole

Store chain finds generic is way to skirt new cigarette ad ban

'A subtle, gray area'

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As the last of the nation's tobacco billboards came down yesterday, removing notorious icons of advertising from Baltimore's skyline, a local convenience store chain discovered that the billboard ban has loopholes.

The Marlboro men who until recently towered over the Jones Falls Expressway in Hampden have been toppled by the November tobacco settlement, which banned manufacturers' cigarette billboards as of midnight last night. But one 14-by-48-foot billboard hawks cigarettes to southbound traffic, declaring in giant letters, "Lowest Cigarette Prices Allowed by Law -- As Low As \$1.29."

The surviving billboard, like a dozen others scattered around the Baltimore area, advertise cigarette sales at Royal Farms convenience stores. Because Royal Farms did not sign the tobacco settlement, the company is not bound by the billboard ban.

Officials of Royal Farms did not respond to requests for comment. But Mark Zinda, president of Hottman Edwards Inc., Royal Farms' advertising agency, said his company had checked with the Maryland attorney general's office to ensure the Royal Farms cigarette billboards were allowed.

"It's still a legal product, and we are advertising that it's for sale," Zinda said.

Deputy Attorney General Carmen M. Shepard confirmed that the billboard is legal. "You can't do anything about a billboard that says, 'Lowest price for cigarettes,'" she said.

The attorneys general who negotiated the tobacco deal insisted that manufacturers prevent retailers from using their brand names, symbols and logos on cigarette billboards, Shepard said.

Altered message

With that clause in mind, the Royal Farms billboards were altered in recent days to remove the image of a "USA"-brand pack of cigarettes. The change was made after Medallion Co., the Richmond-based maker of the small discount brand, signed on to the national settlement, said Wayne Rice, Medallion president. Manufacturers that have signed the agreement make more than 99 percent of cigarettes sold in the United States.

The legal limits on retailers' generic cigarette billboards have not been fully explored. Royal Farms' message is clearly legal. But apparently nothing in the settlement would prevent retailers from displaying on their billboards images of cigarettes or of people smoking, as long as no identifiable brands are used.

Could a convenience store put up a billboard with, say, smoking cowboys?

"That's a subtle, gray area," said Eric Lindblom, manager for policy research at the Campaign for Tobacco-Free Kids in Washington. "If it violated Marlboro's trademark, it would be prohibited. But it could be a close call."

Lindblom said the retailers' loophole in the billboard ban had received little public attention as of yesterday because the deadline had not passed. But as generic cigarette billboards such as Royal Farms' remain on display, he said he expects more questions about why they are allowed to stay up.

"There are over half a million retail outlets all over the country that sell cigarettes, and a lot of them have billboards," Lindblom said. "I know we're going to start getting calls."

As the billboards come down, the settlement requires the tobacco companies to donate the unexpired time on their billboard leases for anti-smoking messages. About 3,700 billboards nationally -- 62 of them in Maryland -- will be getting the anti-tobacco messages for periods ranging from a week or two to five years.

Posters and banners

The disappearance of manufacturers' billboards has given more prominence to the cigarette posters and banners that have proliferated at gas stations and convenience stores. Such signs are permitted by the tobacco deal as long as they are 14 square feet or smaller. But under spottily enforced local zoning statutes, most such signs are illegal anyway.

After a January article in The Sun on the illegal signs, Baltimore Zoning Administrator Donald C. Small wrote to the four largest tobacco companies requesting that they stop providing the signs to retailers.

"Basically they've been cooperative," Small said this week. "They've indicated they do not want to violate the law. They're supposed to be contacting managers and ordering it stopped."

He said the appeal to the companies, combined with more intensive enforcement on the streets, is steadily reducing the number of illegal signs. "We're aggressively attacking it," he said.

In Baltimore County, zoning officials have not contacted cigarette makers. As in the past, said Rick Wisnom, chief of inspection and enforcement, his office will take action only in response to complaints about individual signs.

Wisnom expressed doubt that manufacturers would cooperate, but said Baltimore County officials will be watching Baltimore City's results.

"We'll see how well they do in the city, and if it works, maybe we'll mimic them," he said.

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