

Debate lights up over plan to ban outdoor tobacco ads

Both sides agree the legislative bill is a matter of health vs. rights but argue other points.

By ERIN SCHULTE
Senior Reporter

Advertisers are fuming while lawmakers are puffing their chests over a bill that, if passed, would ban all outdoor billboard advertising of tobacco products.

LB65, introduced by Sen. Ed Schrock of Elm Creek, was advanced out of committee last week for floor debate.

The one thing everyone seems to agree on is that it's an issue of First Amendment free-speech rights vs. the protection of people's health.

Scott Stuart, owner of Imperial Outdoor Advertising, said the effects of the bill would be more than a matter of mere revenue. Billboard companies typically make 75 percent less of their revenue from tobacco advertising now than they did 10 years ago, he said. Though, he said, revenue remains a factor.

"It isn't life and death," Stuart said, "but I would be less than honest if I said, especially in the first year, that it wouldn't have any (financial) impact."

Stuart said the advertising industry already regulates itself and does not place tobacco billboards near churches, schools or playgrounds. But the main issue is the slippery slope of restricting speech.

"People came to this country for freedom," Stuart said. "To have people, even good-minded and good-hearted people, trying to say what's good for you ... I have a real hard time with that."

"We have a right to choose in this country, and I don't think it should be abridged in any fashion."

A UNL journalism professor agreed.

Stacy James, an associate advertising professor, said the bill could set a frightening precedent.

"I'm concerned about the rights of marketers to advertise legal products," James said. "People are very concerned about smoking, as I am."

"But getting rid of advertising is not going to get rid of that problem."

If the bill passed, she said, it would be possible that advertising other legal products could be banned simply because the service or product isn't popular or politically correct.

Child's play

Those who believe in the bill say the ads target an audience for whom tobacco is illegal.

Jody Gittins, Schrock's legislative aid, said the billboards commonly popped up near schools or "fun-plexes" where the target audience was probably fifth-graders.

"The First Amendment gives way when we're trying to uphold our laws," Gittins said. "The reasons for billboard prohibition is to take away the impetus for teen-agers who can't buy cigarettes legally to engage in an illegal activity."

Billboards also are easier to regulate than other forms of advertising because of their invasive nature, Gittins said.

"It's not like newspapers, TV or radio," she said. "You cannot turn them off or close the book."

"You cannot drive with your eyes closed."

Blowing smoke

Although lobbyists have said the bill would be legally challenged, a UNL assistant news-editorial professor said it would only have to meet certain criteria to be constitutional.

John Bender, who teaches communications law, said the state must have a substantial interest in the issue and the ban must be narrowly tailored to further that interest.

"Curtailing smoking is a substantial state interest," Bender said. "It costs a lot in terms of health care, lost wages ... that interest is particularly strong when you talk about deterring young people from smoking."

The problem, he said, comes in deciding if the ban is more regulation than needed. Similar billboard bans in Baltimore have been held up by district courts.

Commercial speech legally is afforded less protection than any other form of speech, he said. Tobacco advertising takes it even further.

"Unlike any other product, tobacco is dangerous when you use it as intended," Bender said.

Even liquor, if used in small amounts, he said, does not harm one unless one abuses it.

"That's why the government has accepted regulation of tobacco advertising that they wouldn't accept otherwise, like the ban of tobacco advertising on television," Bender said.

But Stuart countered that argument, saying there are lots of legal products that can kill you if used to excess. Even pizza.

Man jumps from building

JUMP from page 1

would not say whether the roof door was locked and would not comment further.

Lincoln Police Capt. Lee Wagner said Martinez's feet hit a car stopped for a red light at 10th and O streets as he landed.

Wagner said he did not know Martinez's exact injuries, but said a fall from the building would be "a little hard on the organs of your body."

Martinez's clothes were piled on the street where paramedics had cut them off before taking him to the hospital.

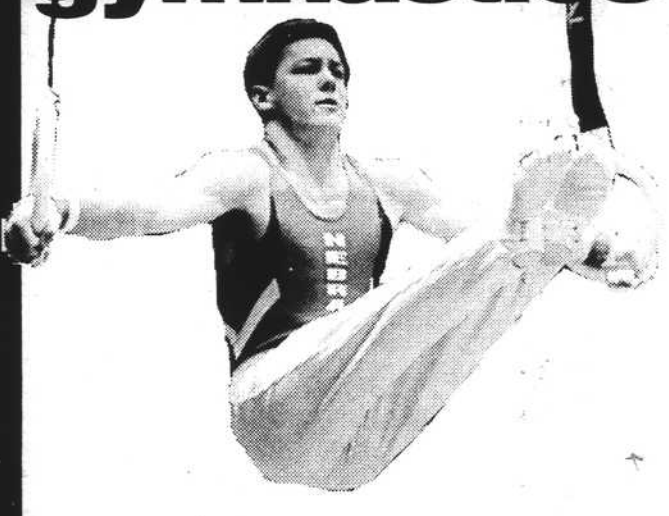
Casady said Lincoln police have previously come in contact with Martinez for attempting suicide.

Judging from Martinez's past suicide attempt, drinking and apparent depressed state, police believe Martinez's fall was not an accident, Casady said.

"I think all these things together indicate that he probably jumped."


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