

=====
'WE COULD HAVE HAD SUCH A GREAT LIFE' - AFTER A DEVASTATING LOSS, A FAMILY
CAMPAIGNS FOR SAFER CIGARETTES

Boston Globe, The (MA)-May 4, 2005
Author: Bella English, Globe Staff

For the sixth or was it the seventh? time in recent years, the Kearney family schlepped up to the State House on a rainy day last week, battling wayward umbrellas, traffic jams, and parking tickets to appear once again on behalf of something that has become dear to their hearts: a "fire-safe" cigarette. Every time they are asked to show up, they show up. They say the same thing over and over: Please, our family would love to see something good come from the loss of our loved ones.

In one of the state's worst fires, the Kearneys in 1990 lost five family members and a friend. "I lost my daughter, her husband, and my three grandchildren," Mary Kearney told a room full of legislators and health officials last week. "My children, my grandchildren, didn't smoke. And to see three little white coffins and two others laid out in front of you . . . I would hope this would never have to happen to anyone ever again."

Each time, their tearful pleas have come to naught. Since 2000, the Massachusetts Legislature has declined to pass a bill, similar to one enacted in New York, mandating that all cigarettes be self-extinguishing: If you're not puffing on them, they go out.

The Kearney family is Exhibit A in the case for a fire-safe cigarette. Fifteen years ago this month, Maureen Kearney O'Neill, her husband, Myles, and their three daughters Charlene, 3, Stacy, 2, and Liana, 10 months perished, along with a houseguest, Patrick McGovern.

Only Deirdre Kearney, Maureen's sister and the girls' aunt, escaped. She is now Deirdre Howard, a 35-year-old nurse and the mother of two girls herself. She was 20 when the fire killed her sister, with whom she was living. She and her boyfriend, Patrick McGovern, had gone to a dance that night. When she returned, her sister asked about how her evening had been.

"She was in bed, and she looked very tired, so I said I'd talk to her in the morning," Howard recalls. But sometime in the wee hours, a cigarette, probably Myles O'Neill's, ignited in a couch. Deirdre Kearney woke to smoke, and escaped by jumping out a second-story window.

"We could have had such a great life," she says today, sifting through photos of the family that was lost. Some of the pictures were plucked from the ashes after the fire; their edges are charred. There's Charlene, playing beauty parlor with Stacy's hair. There's Deirdre holding baby Liana. And there's the young couple on their wedding day. Maureen was 21 when she died, Myles 24. They were high school sweethearts in Ireland, married upon graduation, and moved with the entire Kearney family to Boston in 1985.

But there is a gaping hole in the family portrait, left by the big sister everyone looked up to. Maureen would be 36 if she were alive. Liam, 37, is a Boston firefighter. Deirdre is 35; Tomas, 33, is a Boston police officer. Sean, 24, was 9 when his sister died. "She was such a strong presence in our family," says Howard. "I had one sister. She wasn't at my wedding. She doesn't know my children. Her girls would be 18, 17 and 16. I'd have baby sitters. It has been 15 years, and I still feel like I could pick up the phone and call her."

The young family died on Memorial Day weekend, when most people kick off the summer with barbecues and get-togethers. But the Kearney family starts the holiday each year with a memorial Mass "and getting their graves cleaned up," says Howard. Maureen O'Neill never smoked and constantly lectured her younger sister on "how gross cigarettes were and how much I smelled," recalls Howard, who smoked as a teenager. But O'Neill's husband was an occasional "social smoker," she says. "She'd turn over in her grave to know that's how she was going to die."

Legal action

Shortly after the fire, the Kearneys were approached by lawyers who told them that they were sorry for their loss but that this was just the kind of case they were looking for. They wanted to sue the tobacco companies, which, they said, had the technology to make a "fire-safe cigarette" but refused to do so. The Kearneys, eager to make some good come from the tragedy, signed on in a suit against Philip Morris, which manufactures the Marlboro Light that reportedly caused the fire. Family members spent three days being deposed by tobacco company lawyers, who insisted that the four-alarm blaze was caused not by a cigarette but by gasoline, despite a ruling by Boston fire officials.

The six-year legal battle ended when a federal judge dismissed the lawsuit, ruling that the plaintiffs did not have sufficient evidence to support their case. The Kearney family and other advocates then turned their eyes to the state legislature. But it hasn't been easier there. Despite strong support for a fire-safe cigarette in many quarters, the bill has yet to pass. In 2000, Jeffrey Wigand the tobacco company whistle-blower depicted in the film "The Insider" came to Boston to urge legislators to pass the measure. At the same time, officials from R.J. Reynolds testified that a self-extinguishing cigarette was impossible to manufacture.

But that same year, New York state passed a law requiring that all cigarettes sold there meet a self-extinguishing standard. The law went into effect last summer, making New York the first state in the country to require such cigarettes. Similar legislation has been introduced in six other states.

The Massachusetts bill, sponsored by Representative Rachel Kaprielian, a Watertown Democrat, and Senator Stephen Brewer, a Barre Democrat, will be taken up today by the joint committee on public safety. In 2002 the bill died in a House committee. The next year the legislative session expired before it could go to a full vote.

Supporters blame the tobacco lobby on Beacon Hill. "This should not be about politics," says George Pessotti, a burn victim who runs support groups at

the Shriners Burns Institute. "If the tobacco companies won't do it voluntarily, let's hold their feet to the fire and make them do it here in Massachusetts."

Conducting tests

According to the State Fire Marshal's office, in 2003, cigarette-ignited fires killed 18 people, injured 59 civilians and 48 firefighters, and destroyed \$12.6 million in property. Groups advocating for the passage of the bill include the Massachusetts Medical Society, the Massachusetts Public Interest Research Group, the Harvard School of Public Health, the State Fire Marshal's office, the state Professional Fire Fighters Association, and the National Fire Protection Association.

Testing five brands, Harvard researchers found that the New York cigarettes extinguished themselves nine out of 10 times, compared with the cigarettes sold in Massachusetts, which rarely go out on their own.

"What we found is that the tobacco companies can make fire-safer cigarettes without question," says Dr. Gregory Connolly, who teaches public health practice at the Harvard School of Public Health. "We also found that people are smoking them in New York and buying them for the same price. So there is no reason why this industry shouldn't protect the health of Massachusetts residents, as has been required by the state of New York. It's a no-brainer."

The safer cigarettes are made with less porous papers and thin bands that act as "speed bumps" to slow down a burning cigarette; if a person falls asleep with a lit cigarette, it quickly self-extinguishes. Congressman Joseph Moakley, a South Boston Democrat, was a champion of federal legislation mandating such cigarettes after a house fire in his district killed five children and their parents in 1979. When he died, Congressman Edward Markey of Malden picked up the cause.

Last week, Markey filed a bill that would mandate fire-safe cigarettes nationally. But Connolly stresses that any federal legislation should not preempt states from passing stronger laws. "Massachusetts shouldn't give away its authority to up the standard if we find . . . we're not reducing fire deaths significantly," he said.

Connolly and other backers hope the New York example will pave the way for the Commonwealth to follow suit.

A spokesman for Philip Morris USA, the nation's largest cigarette maker, declined to comment on the bill. According to the company's website, it supports federal instead of state legislation on fire-safe cigarettes to avoid "inconsistent and potentially conflicting state regulations."

A spokesman for R.J. Reynolds, the second-largest cigarette maker in the United States, referred the Globe to the company website, which includes a statement that says, in part: "R.J. Reynolds continues to believe that 'fire-safe' cigarette regulations are not an effective means to address the problem of accidental fires attributed to the mishandling of cigarettes. Careless behavior and mishandling of cigarettes cause fires."

Her daughter's voice

After last week's State House press conference, over lunch at a nearby pub, the Kearney family is subdued. "This is way overdue," says Mary Kearney, the matriarch of the family. "What is taking them so long?" She mentions other measures that have passed, including fire-resistant pajamas for children, child-proof cigarette lighters, and sprinkler systems.

Today, the family will once again appear at the State House, driving from their homes in Roslindale and West Roxbury to tell lawmakers why they should pass the fire-safe cigarette bill.

"I feel like my daughter is talking to me from the grave, to get this done," says Mary Kearney.

SIDEBAR 1:

PUTTING OUT FIRES

PLEASE REFER TO MICROFILM FOR CHART DATA.

SIDEBAR 2:

FATAL PROBLEM

PLEASE REFER TO MICROFILM FOR CHART DATA.

PHOTO CHART

Edition: THIRD
Section: Living
Page: C1

Record Number: 0505040061
Copyright (c) 2005 Globe Newspaper Company

http://docs.newsbank.com/s/InfoWeb/agdocs/AwNB/109E33A6731CB1D5/0FA2D5556441F21F?p_multi=BGBK&s_lang=en-US