

Corporate three strikes laws

Problem: Corporations break the laws repeatedly, but little happens

Rob a bank, steal a car, or sell some marijuana, and you can expect to spend years in jail. But sell listeria-contaminated hot dogs that kill 21 and seriously injure 100, as Sara Lee Corp. did in 1998, and you'll get fined a mere \$200,000 (the equivalent of a \$20 fine for somebody who makes \$100,000 a year). For companies like Sara Lee, fines are merely a cost of doing business. The bottom line is that many corporations find it cheaper to ignore health, safety, and other regulations and risk paying a fine — if they get caught. This is the calculus behind the many cases where corporations know their products are harmful, but find it more profitable to keep selling them (the Ford Pinto, the Dalkon Shield, etc.) Almost every Fortune 500 company has had to pay substantial fines at some time over the past decade, many times for "intentional or reckless acts." (Unintentional violations don't even result in

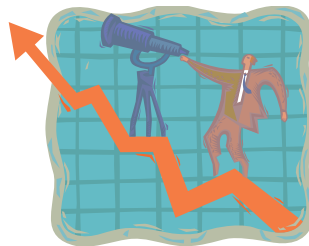
fines.) The FBI places the costs of street crime at \$3.8 billion a year. Using conservative numbers issued by the U.S. Chamber of Commerce, professor Jeffrey Reiman estimates the total cost of white-collar crime in 1997 at \$338 billion, almost 100 times the cost of street crime.



Yet nothing happens to corporations that break the law over and over again, other than the same old fines, which seem increasingly inadequate as a deterrent. People can be put in jail, but for a corporation, imprisonment makes no sense.

Solution: Restore states' mandate to control corporations

States have the power to revoke corporate charters, essentially dismantling corporations and distributing their assets. This should be a real threat to corporations who repeatedly refuse to obey the law. But unfortunately, state attorneys general tend not to see this as a proper means of punishing corporations, even as they repeatedly violate the law, polluting our environment, mistreating their employees, and endangering their customers.



State attorneys general do, however, occasionally revoke the charters of small companies and non-profits who fail to pay their taxes or file proper statements. In 1998, for

example, New York's then-attorney general Dennis Vacco petitioned the courts to revoke the charters of two non-profit tobacco industry front groups — the Council for Tobacco Research and the Tobacco Institute Inc. — for abusing their tax-exempt status.

States can also refuse to grant a corporation a license to do business within the state. For example, after Arthur Andersen's obstruction of justice conviction, several state accounting boards voted to revoke Andersen's license to do business. State governments can and should take a more active role in punishing corporations, creating real consequences for real crimes.

Action: Pass a Corporate Three Strikes Act and stop repeat criminals

A society that support three-strikes-and-you're-out laws for individuals ought to apply the same standards to corporate criminals, whose crimes endanger and rip off far more people than run-of-the-mill street criminals.

lives, lying and cheating and stealing, and then expect to write off any fines as merely a cost of doing business. A Three Strikes law would create some real consequences for repeat corporate criminals. State Senator Gloria Romero has introduced this law in California.

A Corporate Three Strikes Act would accomplish this. The law would say to corporations: If you have three major violations (intentional or grossly negligent actions that result in a fine of at least \$1 million or a death), you can't do business in any state where the Act is law. The law would tell corporations that they can't go around breaking the law repeatedly, polluting the air and water, endangering their employees'



Resources:

The California Corporate 3 Strikes Initiative Campaign: <http://www.corporate3strikes.org/>

Program on Corporations, Law and Democracy: <http://www.poclad.org/>

Challenging Corporate Rule, by Robert Benson