



Legislative Update

August 15, 2011

On August 15, the California Legislature reconvened from its summer recess that began in mid-July. There are now only four weeks remaining in the 2011 legislative session which ends on September 9. Prior to adjourning for the summer recess, there was a lot of legislative activity on the six remaining tobacco-related bills that made it through their house or origin and were sent to the other house for consideration. All of these bills needed to be passed by the required policy committees prior to the July 8 deadline. Some highlights of this legislative activity include:

- Two bills (SB 332: Authorizing Landlords to Prohibit Smoking in Rental Units and SB 796: Creating Penalties for Delivering Prohibited Items in State Hospitals) were passed by the full Assembly and have been sent back to the Senate where they will need to be voted on again as the bills were amended in the Assembly.
- One bill (AB 795: Strengthening Enforcement of Tobacco Policies at State Colleges and Universities) was passed by the required policy committee in the Senate and is awaiting a vote before the full Senate.
- Three bills (AB 217: Modifying Exemption for Smoking in Long-Term Health Care Facilities, AB 1301: Increasing Penalties for Selling Tobacco Products to Minors and SB 575: Expanding Smokefree Indoor Workplaces) were held up in policy committees and are becoming two-year bills that may be considered in the second year of the 2011-2012 legislation session.

The three tobacco-related bills that met the committee deadline will continue to move forward in the legislative process and will need to have an identical version of the bill passed by both houses prior to the end of the session. Legislative activity on the bills that are becoming two-year bills will remain on hold until January 2012, at which point the bills will be able to move forward again in the legislative process starting with the committee where the bill is currently being held.

Full details about the above highlights and an updated summary, status and next steps for every bill is provided in this legislative update. For more frequent updates about the status of these bills and to see how members have voted visit the Center's Bill Tracker at www.Center4TobaccoPolicy.org/bills.

ASSEMBLY BILLS

AB 217: Modifying Exemption for Smoking in Long-Term Health Care Facilities (Carter – D, Rialto)

Assembly Bill 217 would modify the exemption in the statewide smokefree workplace law (Labor Code 6404.5) for long-term health care facilities. Under current law, patient smoking areas are allowed inside a long-term health care facility. This bill would modify that exemption to only allow patient smoking areas at long-term health care facilities that meet certain conditions. The patient smoking areas must not be located in a patient's room, must be outdoors in a courtyard, patio or other outdoor area that can be monitored by staff and must be in an area where smoke does not enter the facility or patient rooms. The bill specifically does not preempt a long-term care facility from making the entire grounds (inside and outside) smokefree.

Status – The hearing before the Senate Health Committee was canceled.

Next Steps – The bill did not meet committee deadlines and will not see further legislative action in 2011. The author has indicated that she will move forward with the legislation as a two-year bill in the second year of the 2011-2012 legislative session.

AB 795: Strengthening Enforcement of Tobacco Policies at State Colleges and Universities (Block – D, San Diego)

Assembly Bill 795 provides for enforcement of smokefree laws on campuses of the three state college/university systems in California (University of California (UC), California State University (CSU) and California Community Colleges). This bill would add enforcement language to existing state law that prohibits smoking with 20 feet of entrances and exits to public buildings and for any additional tobacco use and smoking regulations adopted by the campus. If a campus adopts the enforcement and fine measures, it shall, and for UC campuses may, post signs stating where smoking or tobacco use is prohibited and permitted on campus and shall, and for UC campuses may, inform employees and students of tobacco-use policy on their campus.

Status – AB 795 was passed by the Senate Education Committee on June 22 by a vote of 9-0. The Senate Appropriations Committee sent the bill to the Senate floor without a hearing because the bill does not appropriate money or cause a reduction in state revenues.

Next Steps – The bill is awaiting a vote by the full Senate, which is expected to occur in the next week.

AB 1301: Increasing Penalties for Selling Tobacco Products to Minors (Hill – D, South San Francisco)

Assembly Bill 1301 would make changes to the Cigarette and Tobacco Products Licensing Act to increase penalties for violations of the Stop Tobacco Access to Kids Enforcement (STAKE) Act and Penal Code Section 308 (which both prohibit sale and distribution of tobacco products to minors). Under current law, the penalties for violations range from a warning letter for the first violation to revocation of the state tobacco retailer license only after the eighth violation within two years. This legislation would increase the penalties for violations to: first violation – warning letter to retailer; second violation within three years – \$500 fine unless that retailer shows proof that an identification verification scanner has been purchased and installed; third violation within three years – license suspended for 45 days; fourth violation within three years – license suspended for 180 days; fifth violation within three years – license revoked. In addition, under current law, the Board of Equalization (BOE) can only take action against retailers for violations of the sales to minors laws if the state youth purchase survey is higher than 13 percent. This legislation would remove that requirement. AB 1301 would allow the BOE to take these enforcement actions only if the violation occurs in a jurisdiction where the local government has not adopted a tobacco retailer licensing ordinance that has penalties more stringent than state law.

Status – AB 1301 was amended to have the proposed law only apply in jurisdictions that did not already have a local tobacco retailer licensing ordinance stronger than state law. The hearing before the Senate Governance and Finance Committee was canceled.

Next Steps – The bill did not meet committee deadlines and will not see further legislative action in 2011. The author has indicated that he will move forward with the legislation as a two-year bill in the second year of the 2011-2012 legislative session.

SENATE BILLS

SB 332: Authorizing Landlords to Prohibit Smoking in Rental Units (Padilla – D, San Fernando Valley)

Senate Bill 332 would authorize landlords to prohibit smoking on any part of the property they manage, including within units. For properties that adopt a smoking restriction, all leases or rental agreements entered into after January 1, 2012 would be required to include a provision specifying where smoking is prohibited and adequate notice shall be provided for changes to leases or rental agreements entered into before January 1, 2012. Any changes to the smoking policy for the property would require landlords to adequately notify tenants in accordance with federal, state and local notice requirements. The bill also specifically does not preempt any local ordinance that restricts smoking of cigarettes or tobacco products.

Status – SB 332 was amended to not preempt any local ordinance that restricts smoking. The bill was passed by the Assembly Governmental Organization Committee on July 6 by a vote of 15-0 and by the full Assembly on July 11 by a vote of 66-9.

Next Steps – The bill has been sent back to the Senate which will need to vote on the legislation again as the bill was amended while in the Assembly.

SB 575: Expanding Smokefree Indoor Workplaces (DeSaulnier – D, Concord)

Senate Bill 575 would eliminate most of the exemptions in the existing statewide smokefree workplace law (Labor Code 6404.5). This legislation would eliminate the exemptions and prohibit smoking in hotel and motel lobbies, meeting and banquet rooms of hotels and motels, warehouse facilities, patient smoking areas in long-term health facilities, employee break rooms and employers with five or fewer employees. The bill prohibits smoking at and defines an owner-operated business as any business having no employees, independent

contractors or volunteers. SB 575 would also delete the exemptions, along with the ventilation standards language, for gaming clubs and bars and taverns even though those exemptions are not in effect.

The exemption for guestrooms at a hotel or motel would be reduced from allowing smoking in a maximum of 65 percent of rooms to a maximum of 20 percent of rooms. This bill would also modify the exemption that allows smoking at private residences, except those licensed as family day care homes during the hours of operation and in those areas where children are present, to prohibit smoking in all parts of the residence during hours of operation. The only exemptions to the statewide smokefree workplace law that would still be allowed are for retail tobacco shops and private smokers' lounges, cabs of motor trucks if no nonsmoking employees are present, theatrical production sites if smoking is an integral part of the production and medical research or treatment sites if smoking is integral to the research.

Status – SB 575 was passed by the Assembly Labor and Employment Committee on June 22 by a vote of 4-2. On July 6, SB 575 was held in the Assembly Governmental Organization Committee at the request of the Committee Chair.

Next Steps – The bill did not meet committee deadlines and will not see further legislative action in 2011. The author has indicated that he will move forward with the legislation as a two-year bill in the second year of the 2011-2012 legislative session.

SB 796: Creating Penalties for Delivering Prohibited Items in State Hospitals (Blakeslee – R, San Luis Obispo)

Senate Bill 796 would make the delivery of prohibited items to patients in state hospitals a misdemeanor punishable by a maximum fine of \$1,000 for each prohibited item. If the state hospital has a ban on tobacco products, then tobacco products would be considered a prohibited item. The bill would require the prohibited items to be confiscated from visitors, but returned the same day unless the item is being held for evidence.

Status – SB 796 was amended to require signs to be posted outside the facilities. The bill was passed by the Assembly Public Safety Committee on June 21 by a vote of 7-0, passed by the Assembly Appropriations Committee on July 6 by a vote of 16-0 and passed by the full Assembly on July 14 by a vote of 76-0.

Next Steps – The bill has been sent back to the Senate which will need to vote on the legislation again as the bill was amended while in the Assembly.

Center for Tobacco Policy & Organizing, August 15, 2011

If you have questions about this analysis, please contact Justin Garrett, at (jgarrett@alac.org) or Kimberly Weich Reusche (kwreusche@alac.org) at (916) 554-5864 (LUNG). To view this update and past legislative updates, please visit www.Center4TobaccoPolicy.org/bills-updates.

Sources: Copies of the legislation outlined above and vote information may be obtained at <http://www.leginfo.ca.gov>.

© 2011. California Department of Public Health. Funded under contract #09-11173.