

## Legislative Update

July 31, 2007

This legislative update comes as the Legislature and Governor are mired in a deadlock over the development and passage of the state budget, which was supposed to have been passed and enacted by July 1. On the legislative side, this update highlights nine tobacco-related bills that have survived legislative hurdles and timelines, as well as a new proposed constitutional amendment related to the cigarette tax. Summaries and status updates of these bills are included, as well as the designated "tobacco control" position, which is represented by the American Lung Association of California, American Heart Association, and the American Cancer Society. The other four tobacco-related bills that were tracked in previous Center legislative updates did not meet the house of origin deadline and will see no further action in 2007.

One bill, Assembly Bill 647, has already been passed by both houses and signed into law by the Governor, while the other eight bills are working their way to a floor vote through the committee process in the other house. The state legislature is scheduled to be on summer recess until late August, but may return to Sacramento during this time to vote on the budget. Once the legislature returns in late August, the legislative activity will resume as these bills start getting floor votes in the other house and then sent to the Governor for his signature.

### **AB 647 (Salas – D, Chula Vista) School-based Tobacco Education and Cessation Programs**

The purpose of AB 647 is to implement the TUPE (Tobacco-Use Prevention Education) Task Force recommendations. The Task Force was convened in 2003 and asked to recommend ways that the TUPE program might be changed to continue to deliver an effective, evidence-based, statewide, school-centered tobacco use prevention education program that could operate with less money. AB 647 changes the manner in which funds are provided to local education agencies consolidating the current three funding mechanisms into one competitive grant process. It also increases the minimum funding for the County Offices of Education from the current level of \$25,000 to \$37,500. **Tobacco Control Position:** Support

**Status:** AB 647 was approved by the Governor and signed into law on July 27. Earlier in the month, the Senate passed AB 647 by a vote of 40-0 on July 9, and the Assembly cast its final procedural vote (79-0) before sending the bill to the Governor. The bill was amended before the final Assembly vote to make minor technical changes -- moving the effective date to July 1, 2009, and requiring the Department of Education to develop criteria and standards for allocating the grants instead of adopting regulations.

### **AB 1467 (DeSaulnier – D, Martinez) Expansion of Smokefree Workplaces**

This legislation would eliminate exemptions from the statewide smokefree workplace law (AB 13) for specified bars, warehouse facilities, employee break rooms, hotel lobbies, meeting and banquet rooms. In addition, smoking would be banned in any owner-operated business where non-employees are permitted access, regardless of whether the owner has employees. **Tobacco Control Position:** Support

**Status:** AB 1467 passed the Assembly on May 14 by a vote of 45-27. In the Senate, the bill was passed by the Committee on Labor and Industrial Relations and is now awaiting a vote by the full Senate.

**AB 1585 (Lieber – D, Mountain View) Expansion of Nonsale Distribution of Tobacco Products**

This bill would modify the definition of nonsale distribution of smokeless tobacco to be defined to include gift certificates, gift cards, and other similar offers (coupons, coupon offers and rebate offers are already included under the current definition of nonsale distribution). **Tobacco Control Position:** Support

**Status:** AB 1585 passed the Assembly on May 14 by a vote of 42-30. In the Senate, the bill was passed by the Health Committee and is now awaiting a vote by the full Senate.

**AB 1617 (DeSaulnier – D, Martinez) Restricting Internet Sales of Tobacco Products**

This bill would restrict Internet sales of cigarettes by making it unlawful for distributors to ship cigarettes to individuals in California and for common or contract carriers to knowingly transport cigarettes to individuals in California. The only exceptions would be that cigarettes could be shipped in California to licensed distributors, export and customs warehouses or government employees acting in accordance with their official duties. However, individuals would be allowed to transport up to 800 cigarettes (4 cartons) for themselves or other adults in California. The bill excludes cigars, pipe tobacco, and other tobacco products from the shipping prohibition but would set other restrictions to ensure that those products are not purchased by minors over the internet or through other non face-to-face sale methods. **Tobacco Control Position:** Support

**Status:** AB 1617 passed the Assembly on May 29 by a vote of 47-31. In the Senate, the bill was passed by the Health Committee and the Revenue and Taxation Committee and has been referred to the Appropriations Committee. The bill was amended on July 5 to make all violations of this bill subject to civil penalties and not criminal penalties.

**SB 7 (Oropeza – D, Carson) Prohibiting Smoking in Cars with Minors**

Senate Bill 7 would prohibit smoking in a motor vehicle, regardless of whether the vehicle is stationary or moving, in which a minor (17 years and younger) is present. Violations would be punishable by a fine of up to \$100. This bill would require the State Department of Health Services to implement a public education program regarding the dangers of secondhand smoke in confined spaces and, if funds are available, make the public aware of the provisions in the bill. The bill states that an officer may not pull over a vehicle for the sole purpose of checking if the driver is smoking with a minor present. **Tobacco Control Position:** Support

**Status:** SB 7 passed the Senate by a vote of 22-18 on June 7. In the Assembly, the bill was passed by the Transportation Committee and the Governmental Organization Committee and has been referred to the Appropriations Committee.

**SB 295 (Cogdill – R, Modesto) Definition of Untaxed Tobacco Product**

This bill would clarify the definition on an untaxed tobacco product and apply this definition to all sections of the cigarette and tobacco products tax law. **Tobacco Control Position:** No Position

**Status:** SB 295 passed the Senate by a vote of 39-0 on May 14. In the Assembly, the bill was passed by the Revenue and Taxation Committee and has been referred to the Appropriations Committee.

**SB 624 (Padilla – D, Pacoima) Increasing STAKE Act Enforcement**

The bill would allow local enforcement agencies to conduct random inspections using minors and to assess penalties to ensure retailer compliance with the STAKE Act without having to enter into an enforcement delegation contract with Department of Public Health as they are currently required to do. This legislation would also raise the civil penalties for selling or giving tobacco to anyone under the age of 18 and authorize civil penalties against individuals or businesses that engage in tobacco retailing and do not appropriately post the required notice about not selling tobacco to minors. Finally, this bill would require that any civil penalties over \$300,000 collected in one year under this act would be deposited into the Sale of Tobacco to Minors Control Account and not the general fund as under current law. **Tobacco Control Position:** Support

**Status:** SB 624 passed the Senate on May 29 by a vote of 21-13. In the Assembly, the bill was passed by the Governmental Organization Committee and has been referred to the Appropriations Committee.

**SB 625 (Padilla – D, Pacoima) Tobacco Product Retailers License Reinstatement Fee**

The bill would authorize a \$100 reinstatement fee as a precondition for reinstatement of an expired state tobacco retailer license. This fee would not apply to the annual renewal application for state tobacco product retailer licenses, but only the licenses that actually expire and must be reinstated. **Tobacco Control Position:** American Lung Association/American Heart Association Support; American Cancer Society No Position

**Status:** SB 625 passed the Senate on May 24 by a vote of 23-13. In the Assembly, the bill was passed by the Governmental Organization Committee and the Appropriations Committee. SB 625 is now awaiting a floor vote by the full Assembly.

**SB 655 (Margett – R, Glendora) Possession of Tobacco in Local Correctional Facilities**

This bill would make possession of tobacco products in a local correctional facility illegal and punishable by a fine of up to \$250. This would only apply to local correctional facilities that are located in a county where the Board of Supervisors has passed an ordinance that bans tobacco possession in its correctional facilities. **Tobacco Control Position:** No Position

**Status:** SB 655 passed the Senate on May 21 by a vote of 36-2. In the Assembly, the bill was passed by the Public Safety Committee and the Appropriations Committee. SB 655 is now awaiting a floor vote by the full Assembly.

**SCA 13 (Torlakson – D, Antioch) Proposed Constitutional Amendment to Increase the Tax on Cigarettes**

Senate Constitutional Amendment 13 would raise the tax on cigarettes by \$2.10/pack. Revenues would be deposited in a new Tobacco Excise Tax Account and be spent as follows: 50% for children's health care, 15% for tobacco cessation services, 15% for general health care, 5% for lung cancer research, and up to 15% to offset any revenue losses that occur in the Cigarette and Tobacco Products Surtax Fund and Breast Cancer Fund that result from a decreased consumption of cigarettes due to this new tax.

Because SCA 13 is a proposed constitutional amendment, it requires a 2/3 vote to get out of both the Senate and the Assembly and must be submitted to the people of California for a direct vote. If a majority of voters pass the proposed constitutional amendment, it would then go into effect. **Tobacco Control Position:** Support if Amended

**Status:** No legislative action has been taken on SCA 13.

**Center for Tobacco Policy & Organizing, July 31, 2007**

*If you have questions about this analysis, please contact The Center's Policy Coordinator, Justin Garrett, at (916) 442-4299, ext. 233 or [jgarrett@alac.org](mailto:jgarrett@alac.org) or Paul Kneprath, Vice President, Government Relations, American Lung Association of California, at (916) 442-4446, ext. 224 or [pkneprath@alac.org](mailto:pkneprath@alac.org).*

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