

Legislative Update

June 14, 2007

June 8 was the deadline for all bills to be passed out of their house of origin. Any bills that were not passed by this date will see no further legislative action during the 2007 session. Out of the thirteen tobacco-related bills, nine were passed by this deadline and have been sent to the other house for consideration. Several bills were amended since the last legislative update. This legislative update contains brief summaries of all of the bills, based on the most recent version of each bill. Also included are the positions on each bill taken by the tobacco control organizations, represented by the American Lung Association, American Heart Association, and the American Cancer Society. Finally, the floor vote totals and how each member voted is listed for the nine bills that received floor votes.

In addition to these thirteen tobacco-related bills, Senator Torlakson introduced a proposed constitutional amendment, SCA 13, on May 31 that would raise the tax on cigarettes by \$2.10/pack. A summary of SCA 13, as well as a description of the constitutional amendment process can be found at the end of this update.

BILL THAT PASSED THE ASSEMBLY:

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

Floor Vote: AB 647 passed the Assembly on May 10 by a vote of 72-0.

Voted in Favor – Adams Aghazarian Arambula Bass Beall Benoit Berg Berryhill Blakeslee Brownley Caballero Calderon Carter Cook Coto Davis De La Torre De Leon DeSaulnier DeVore Duvall Emmerson Eng Evans Feuer Fuller Gaines Galgiani Garcia Hancock Hayashi Hernandez Horton Houston Huff Huffman Jeffries Jones Karnette Keene Krekorian La Malfa Laird Leno Levine Lieber Ma Maze Mendoza Mullin Nakanishi Nava Niello Nunez Parra Plescia Portantino Price Richardson Salas Saldana Silva Smyth Solorio Spitzer Strickland Swanson Torrico Tran Villines Walters Wolk

Absent or Not Voting – Anderson Dymally Garrick Lieu Runner Ruskin Soto

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

Floor Vote: AB 1467 passed the Assembly on May 14 by a vote of 45-27.

Voted in Favor – Arambula Beall Berg Blakeslee Brownley Caballero Calderon Carter Coto Davis De La Torre De Leon DeSaulnier Dymally Eng Evans Feuer Galgiani Hancock Hayashi Hernandez Horton Huffman Jones Karnette Laird Leno Levine Lieber Lieu Ma Mendoza Mullin Nava Nunez Parra Portantino Price Richardson Salas Saldana Solorio Swanson Torrico Wolk

Voted Against – Adams Aghazarian Anderson Berryhill Cook DeVore Duvall Emmerson Fuller Gaines Garrick Huff Jeffries Keene La Malfa Maze Nakanishi Niello Plescia Runner Silva Smyth Spitzer Strickland Tran Villines Walters

Absent or Not Voting – Bass Benoit Garcia Houston Krekorian Ruskin Soto

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

Floor Vote: AB 1585 passed the Assembly on May 14 by a vote of 42-30.

Voted in Favor – Arambula Beall Berg Brownley Caballero Calderon Carter Coto Davis De La Torre De Leon DeSaulnier Dymally Eng Evans Feuer Galgiani Hancock Hayashi Hernandez Huffman Jones Karnette Krekorian Leno Levine Lieber Lieu Ma Mendoza Mullin Nava Parra Portantino Price Richardson Salas Saldana Solorio Swanson Torrico Wolk

Voted Against – Adams Aghazarian Anderson Benoit Berryhill Blakeslee Cook DeVore Duvall Emmerson Fuller Gaines Garcia Garrick Horton Huff Jeffries Keene La Malfa Maze Nakanishi Plescia Runner Silva Smyth Spitzer Strickland Tran Villines Walters

Absent or Not Voting – Bass Houston Laird Niello Nunez Ruskin Soto

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

Floor Vote: AB 1617 passed the Assembly on May 29 by a vote of 47-31.

Voted in Favor – Arambula Bass Beall Berg Brownley Caballero Calderon Carter Coto Davis De La Torre De Leon DeSaulnier Dymally Eng Evans Feuer Fuentes Galgiani Hancock Hayashi Hernandez Huffman Jones Karnette Krekorian Laird Leno Levine Lieber Lieu Ma Mendoza Mullin Nava Nunez Parra Portantino Price Richardson Ruskin Salas Saldana Solorio Swanson Torrico Wolk

Voted Against – Adams Aghazarian Anderson Benoit Berryhill Blakeslee Cook Duvall Emmerson Fuller Gaines Garcia Garrick Horton Houston Huff Jeffries Keene La Malfa Maze Nakanishi Niello Plescia Runner Silva Smyth Spitzer Strickland Tran Villines Walters

Absent or Not Voting – DeVore Soto

BILLS THAT PASSED THE SENATE:

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

Floor Vote: SB 7 passed the Senate by a vote of 22-18 on June 7.

Voted in Favor – Alquist Calderon Cedillo Corbett Florez Kehoe Kuehl Lowenthal Maldonado Migden Oropeza Padilla Perata Ridley-Thomas Romero Scott Simitian Steinberg Torlakson Vincent Wiggins Yee

Voted Against – Aanestad Ackerman Ashburn Battin Cogdill Correa Cox Denham Ducheny Dutton Harman Hollingsworth Machado Margett McClintock Negrete McLeod Runner Wyland

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

Floor Vote: SB 295 passed the Senate by a vote of 39-0 on May 14.

Voted in Favor – Aanestad Ackerman Alquist Ashburn Calderon Cedillo Cogdill Corbett Correa Cox Denham Ducheny Dutton Florez Harman Hollingsworth Kehoe Kuehl Lowenthal Machado Maldonado Margett McClintock Migden Negrete McLeod Oropeza Padilla Perata Ridley-Thomas Romero Runner Scott Simitian Steinberg Torlakson Vincent Wiggins Wyland Yee

Absent or Not Voting – Battin

SB 624 (Padilla – D, Pacoima) 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

Floor Vote: SB 624 passed the Senate on May 29 by a vote of 21-13.

Voted in Favor – Alquist Calderon Cedillo Corbett Florez Kehoe Kuehl Lowenthal Machado Migden Negrete McLeod Oropeza Padilla Perata Ridley-Thomas Romero Scott Simitian Steinberg Torlakson Wiggins

Voted Against – Aanestad Ackerman Ashburn Cogdill Cox Denham Harman Hollingsworth Margett McClintock Runner Wyland Yee

Absent or Not Voting – Battin Correa Ducheny Dutton Maldonado Vincent

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

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

Floor Vote: SB 625 passed the Senate on May 24 by a vote of 23-13.

Voted in Favor – Alquist Calderon Cedillo Corbett Ducheny Kehoe Kuehl Machado Maldonado Migden Negrete McLeod Oropeza Padilla Perata Ridley-Thomas Romero Scott Simitian Steinberg Torlakson Vincent Wiggins Yee

Voted Against – Aanestad Ackerman Ashburn Cogdill Correa Cox Denham Dutton Hollingsworth Margett McClintock Runner Wyland

Absent or Not Voting – Battin Florez Harman Lowenthal

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

Floor Vote: SB 655 passed the Senate on May 21 by a vote of 36-2.

Voted in Favor – Aanestad Ackerman Alquist Ashburn Battin Calderon Cedillo Cogdill Corbett Correa Cox Denham Dutton Florez Harman Kehoe Kuehl Lowenthal Machado Maldonado Margett Migden Negrete McLeod Padilla Perata Ridley-Thomas Romero Runner Scott Simitian Steinberg Torlakson Vincent Wiggins Wyland Yee

Voted Against – Hollingsworth McClintock

Absent or Not Voting – Ducheny Oropeza

BILLS THAT WERE NOT PASSED BY THE DEADLINE:

SB 4 (Oropeza – D, Carson) Prohibiting Smoking at State Beaches and Parks

Senate Bill 4 would prohibit smoking within the state park system or at a state coastal beach. The fine for individuals committing this infraction would be \$250. This prohibition on smoking does not apply to adjacent parking areas. **Tobacco Control Position:** American Lung Association/American Cancer Society Support; American Heart Association No Position

SB 24 (Torlakson – D, Antioch) Environmental Tobacco Smoke Mitigation Fee

SB 24 would establish a secondhand smoke emissions fee on cigarettes and cigars. This bill would authorize the State Board of Equalization to collect a fee from consumers of cigars and cigarettes to mitigate the harmful effects of environmental tobacco smoke (ETS). Specific fee amounts would be established by the Department of Public Health per cigar and cigarette based on the amount of ETS created by their usage and its relation to the total environmental problem created by smoking cigars and cigarettes. The fee would be collected by retailers at the time of purchase.

Revenues from this fee would go into the newly created Cigarette and Tobacco Products Emissions Fund. These monies would be available to the Department of Public Health, after appropriation by the legislature, to be used for a study on the health impacts of ETS, providing no-cost access to cessation services, producing an ongoing public awareness campaign about ETS related diseases and the impact of ETS on children and other issues related to ETS. **Tobacco Control Position:** American Lung Association/American Cancer Society Support; American Heart Association Support in Concept

SB 554 (Migden – D, San Francisco) Changing the Definition of a Cigarette

SB 554 would declare that it is the intent of the legislature to establish a uniform definition of a cigarette under the cigarette tax law and other provisions of law. **Tobacco Control Position:** No Position

SB 950 (Corbett – D, San Leandro) Require Reporting of Tobacco Products Ingredients

This bill would require that all tobacco manufacturers and importers of cigarettes and tobacco products provide an annual report of ingredients to the State Board of Equalization and the State Department of Public Health. This report would include the weight, measure, or numerical count of any added ingredient as well as the nicotine yield ratings. Should the Department of Public Health find a reasonable scientific basis that the public availability of such information would reduce risks to public health, the Department would be required to disclose this information. **Tobacco Control Position:** American Heart Association/American Cancer Society No Position; American Lung Association Support

NEW TOBACCO-RELATED LEGISLATION:**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. The revenue generated from this tax increase would be deposited in a new Tobacco Excise Tax Account. Revenues would be subject to appropriation by the Legislature but used exclusively for tobacco cessation services, lung cancer research, and health related purposes.

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:** No Position

Center for Tobacco Policy & Organizing, June 14, 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 or Paul Knepprath, Vice President, Government Relations, American Lung Association of California, at (916) 442-4446, ext. 224 or pknepprath@alac.org.

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