

## Legislative Update

March 26, 2007

Below is a list of thirteen tobacco-related bills introduced for the 2007-2008 legislative session. The deadline for introducing new bills was February 23, but keep in mind that bills can be amended (in part or completely) up to the end of the session. This legislative update contains summaries of all thirteen bills as well as information about any current or upcoming legislative action.

### **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.

**Status:** Scheduled for a hearing by the Assembly Education Committee on April 18

### **AB 1467 (DeSaulnier – D, Concord) 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.

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

This bill would expand the prohibition on nonsale distribution of smokeless tobacco or cigarettes to apply to all public and private property and be applicable to manufacturers, distributors, and retailers of tobacco products. Nonsale distribution would be defined to also include gift certificates, credits, and proofs-of-purchases (coupons, coupon offers and rebate offers are already included under the current definition of nonsale distribution). This bill would also eliminate the exemption for tobacco product distribution in connection with sales of another item.

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

Assembly Bill 1617 would prohibit the shipment of cigarettes to individuals in California with certain exceptions, would place restrictions on internet sales of tobacco products and would establish criminal and civil penalties for violations of these requirements. This legislation is identical to legislation from the previous legislative session, SB 1208 by former Senator Ortiz, that passed the Senate and the Assembly but was vetoed by the Governor.

This bill would make 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. Before shipping these tobacco products, a seller

would be required to first verify that the purchaser is at least 18 years old. This can be done through government records or by requiring the purchaser to submit a signed certification and a copy of a government document that verifies age. In addition, payment would be required by personal check or credit card and the products would be required to be shipped to the purchaser's verified billing address, but not to a post office box. The seller would also be required to verify the order by calling the purchaser prior to shipment.

#### **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. At this time, SB 4 does not designate an enforcement agency, nor does it require signage. Rather, the bill states that the Department of Parks and Recreation or another relevant agency may provide signage, but only when existing signs need to be replaced.

**Status:** Scheduled for a hearing by the Senate Natural Resources and Water Committee on March 27

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

Senate Bill 7, known as the Marco Firebaugh Memorial Children's Health and Safety Act of 2007, would prohibit smoking in a motor vehicle, regardless of whether the vehicle is stationary or moving, in which a minor is present. Violations would be punishable by a fine of up to \$100. This bill is similar to legislation from last year's legislative session, AB 379 by former Assemblymember Koretz, that passed the Senate but failed in the Assembly. The notable difference is that SB 7 would extend the smoking prohibition to include when all minor children (seventeen years and younger) are present, not just those required to ride in child safety seats (six years or 60 pounds).

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 new provisions of this bill would be displayed in the California Driver's Handbook and included when vehicle registration renewals are mailed.

**Status:** Scheduled for a hearing by the Senate Health Committee on March 28

#### **SB 24 (Torlakson – D, Antioch) Tobacco Tax Increase**

As currently written, Senate Bill 24 would increase California's tobacco tax by an additional \$1.90/pack, pushing the state tax to a total of \$2.77/pack. Revenues generated from this tax would go into the state General Fund to be used for children's health related purposes and smoking cessation programs, as determined and appropriated by the state Legislature.

It is our understanding that the bill is going to be amended to be a mitigation fee on tobacco instead of a tax. A mitigation fee would be a charge on the tobacco companies to help pay for costs associated with the harmful damages caused by the use of their products. The level of the fee and expenditure of revenues has not been determined.

**Status:** Scheduled for a hearing by the Senate Health Committee on April 18

#### **SB 295 (Cogdill – R, Modesto) Reporting of Tobacco Products Sales**

Senate Bill 295 would require all distributors of tobacco products to report all sales of any untaxed cigarette or tobacco products to the State Board of Equalization within 24 hours by electronic means. This report would include information about the identity of the purchaser, the type of product sold, and the value of the product sold.

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

This bill would change the definition of a cigarette under the Cigarette Tax Law. SB 554 would define a cigarette as any product that contains nicotine, is intended to be burned or heated under ordinary use and contains any roll of tobacco wrapped in paper or tobacco in any form that is functional in the product. The bill is designed to include all varieties of "little cigars" in the definition of cigarette for the

purposes of ensuring that the appropriate tax is collected. Because this bill would amend the provisions of the Tobacco Tax and Health Protection Act of 1998 and the California Families and Children Act of 1998, it must be approved by a 4/5 vote in both the Senate and Assembly.

**Status:** Scheduled for a hearing by the Senate Revenue and Taxation Committee on April 11

**SB 624 (Padilla – D, San Fernando Valley) Public Nonsale Distribution of Tobacco Products**

Senate Bill 624 would amend the section of the law related to nonsale distribution of smokeless tobacco and cigarettes in public. Currently, this bill is a "spot bill" meaning that it was introduced containing only technical, non-substantive changes to existing law. This is done in order to meet the deadline to introduce legislation allowing the author to amend the bill once language and/or policy has been decided upon.

**SB 625 (Padilla – D, San Fernando Valley) Tobacco Product Retailers License**

This legislation would amend the California Cigarette and Tobacco Products Licensing Act of 2003. Currently, this bill is a "spot bill" meaning that it was introduced containing only technical, non-substantive changes to existing law. This is done in order to meet the deadline to introduce legislation allowing the author to amend the bill once language and/or policy has been decided upon.

**SB 655 (Margett – R, Glendora) Repeal of Prohibition of Tobacco Possession by Inmates**

Senate Bill 655 would repeal the ban on possession or use of tobacco products by inmates under the direction of the Department of Corrections and Rehabilitation, which was signed into law in September 2004. This legislation would make it a crime to possess tobacco or tobacco paraphernalia intended to be used for unlawfully ingesting or consuming tobacco without authorization by the rules of the Department of Corrections. This crime would be punishable by a fine of up to \$1, 000 or six months imprisonment or both.

**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. In order to disclose this information, the Attorney General would have to find that this disclosure would not constitute a taking of property.

**Center for Tobacco Policy & Organizing, March 26, 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 may be obtained at <http://www.leginfo.ca.gov>.*