

LEGISLATIVE UPDATE February 10, 2004

The Legislature saw a flurry of activity this January as they began the second year of a two-year session. Because this year is the second year, any "two-year" bill that was still in the house (Assembly or Senate) where it was introduced last year had to pass out of that house by January 31, 2004. The Legislature also has the opportunity to introduce new legislation until February 20, 2004. Therefore, there is likely to be additional tobacco-related legislation beyond what is listed here. The Center will continue to produce legislative updates throughout the session to keep you informed of any new developments.

Bills on the Move

The following bills passed out of the house in which they originated before the January 31, 2004 deadline.

AB 384 – Tobacco Prohibition in Prisons

AB 384 (Leslie, R - Tahoe City) would prohibit the possession of tobacco products by inmates in state prisons and California Youth Authority (CYA) facilities. It would also eliminate tobacco products from the list of items that are allowed to be sold to inmates within the state's adult and youth correctional facilities.

What's Next: AB 384 will now be heard in the Senate.

SB 676 – Fees on Tobacco Manufacturer

SB 676 (Ortiz, D – Sacramento) would require tobacco manufacturers that did not sign the 1998 Master Tobacco Settlement Agreement (Non-participating manufacturers of NPMs) to pay a fee to the state. The amount of the fee would be established by the Department of Health Services based in part on the annual costs of treating tobacco-related disease and the NPM's share of the tobacco market. Proceeds from the fee would support smoking cessation services (an amendment is likely to be offered that would allow funds to be used for more general tobacco control programs as well as cessation services).

AB 1239 (Wiggins, D - Santa Rosa) is a similar bill to SB 676. Although this bill has not moved this year, it is still alive because the subject matter was amended into a bill that had already passed out of the house it originated in last session.

What's Next: SB 676 will now be heard in the Assembly. It is most likely to be heard first in the Assembly Committee on Government Organization. AB 1239 has been referred to Senate committees on Revenue and Taxation and Health and Human Services.

Dead But Not Forgotten

Although the following bills did not pass out of the house they were introduced in by the January 31, 2004 deadline, they are still worthy of mention. Some of the policies outlined in the bills listed below may come back to life in other forms.

AB 210 – Smoke-Free Housing

AB 210 (Nation, D - San Rafael) would have regulated smoking in and around multi-family residential housing including apartments and condos. Specifically, the bill would have required the designation of smoking and nonsmoking units, classified drifting or wafting

smoke in condos and co-ops a nuisance, and banned smoking in indoor and outdoor common areas of condos and co-ops.

What's Next: According to Assemblyman Nation's staff, the Assemblyman is still very interested in pursuing this policy but believes that more activity should occur at the local level before another attempt is made to pass statewide policy.

AB 221- Minimum Age to Purchase Tobacco

AB 221 (Koretz, D - West Hollywood) would increase the minimum age to purchase or possess tobacco in California from 18 to 21 years.

What's Next: Although this bill died in the Assembly, the bill is expected to be re-introduced in the Senate by Senator Joe Dunn (D - Santa Ana).

SB 433 – Tobacco Licensing, Penalties for Selling to Minors

SB 433 (Ortiz, D – Sacramento) would have amended provision of the new tobacco-licensing program established by AB 71, which went into effect on January 1, 2004. Although SB 433 did pass out of the Senate Health Committee with overwhelming support, it was defeated in the Senate Appropriations Committee.

What's Next: Other bills may be introduced this year that would help to improve AB 71 or to strengthen the STAKE Act. Meanwhile there are many local campaigns working toward strong tobacco retailer licensing ordinances. In the long run, these attempts will likely put pressure on the state to adopt a licensing scheme that works.

Tobacco Tax

As most tobacco control advocates are aware, there was a campaign last legislative session sponsored by the American Lung Association of California, American Heart Association, American Cancer Society, Next Generation California Tobacco Control Alliance (now the California Tobacco Control Alliance), Campaign for Tobacco-Free Kids and Americans for Nonsmokers' Rights, to increase the tobacco tax by \$1.50 with a twenty-cent dedication to tobacco control programs. In the end, no tax increases were included in the 2003-2004 budget.

Unfortunately, this year not only is it very unlikely that any tax proposal would get the two-thirds vote of the Legislature necessary to pass a tax increase but now there is also a governor that has pledged not to raise taxes. However, there are two propositions on the March 2, 2004 ballot that could change this situation: Proposition 56 and Proposition 57.

Proposition 56 would reduce the vote threshold to adopt the State budget and related tax legislation from two-thirds to 55%. This would increase the likelihood that any tax could be increased, especially a popular tax like a tobacco tax.

Proposition 57 is Governor Schwarzenegger's \$15 billion bond proposal. The Governor has stated that if this proposal fails tax increases and additional budget cuts will be necessary. If either Proposition 56 passes or Proposition 57 fails, it is very likely that the Legislature will be looking to increase taxes, and a tobacco tax is inevitably in the mix.

If you have questions about this analysis, please contact The Center's Policy Coordinator, Julie Bradley-Hart at (916) 442-4299 or at jbhart@alac.org.

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