

Legislative Update (March 16, 2006)

The second year of the 2005-2006 legislative session began in January, and a few tobacco related bills have been introduced. The deadline for introducing new bills was February 24, but keep in mind that bills can be amended (in part or completely) up to the end of the session. Brief summaries of three bills relevant to the tobacco control community are provided below.

SB 1208 (Ortiz – D, Sacramento) Tobacco products, Face-to Face Sales.

Existing law allows for internet and mail order sales of tobacco products if the purchaser has paid applicable state sales taxes and complies with the requirements of the federal Jenkins Act. This bill would prohibit shipping or transporting tobacco products to private individuals in California, and would establish criminal and civil penalties for violation of this prohibition. This bill also clarifies the definition of “bidis,” a currently banned tobacco product.

SB 1208 would prohibit internet sales of tobacco products to California consumers. According to the California Department of Justice, an undercover sting operation of internet retailers found a widespread failure to collect taxes and a willingness to sell tobacco products to minors. It is estimated that illegal internet sales cost California \$30 million per year in unpaid taxes. This bill is patterned after a similar New York law, section 1399-11 of New York's Public Health Law. SB 1208 is set for a hearing on March 22 in the Senate Health Committee.

SB 1429 (Morrow – R, Oceanside) Punitive damages, Product Liability.

Existing law allows civil plaintiffs to recover punitive damages if a defendant is found guilty of fraud, oppression or malice. This bill prohibits punitive damage awards in product liability cases if the product was either approved by, or in material compliance with, state or federal statutes or regulations. Punitive damages would be allowed if a defendant intentionally withheld or misrepresented information and that action was related to the injury suffered.

Tobacco products were previously exempted from product liability suits in California for ten years (1987-1997) because they were classified as an inherently unsafe consumer product like alcohol, butter and sugar. SB 67 (Kopp – San Francisco) deleted this exemption in 1997, clearing the way for the state’s lawsuit against the tobacco companies as well as suits by private plaintiffs. SB 1429 would give tobacco manufacturers a small level of immunity by preventing punitive damage awards where a product is regulated or meets certain state and federal requirements. SB 1429 has been referred to the Senate Judiciary Committee, but no hearing date has been set.

AB 2067 (Oropeza – D, Long Beach) Smoking, definition of enclosed spaces in buildings.

Existing law prohibits smoking in public buildings and in all enclosed places of employment, per the California Smoke Free Workplace Act of 1994. Existing law specifically excludes covered parking lots from these prohibitions. This bill would prohibit smoking in “common areas” of covered parking lots, including common areas such as lobbies, lounges, waiting areas, elevators, stairwells, and restrooms.

In addition, the bill amends the definition of “enclosed places of employment” to include the above listed common areas. These changes would be relatively minor, but this bill would also be the first time that the Smoke Free Workplace Act has been proposed to be amended. AB 2067 has not yet been assigned to a committee.

The Center will continue to provide updates throughout the legislative process to help keep you informed of what is happening in Sacramento and how proposed legislation may affect local tobacco control efforts.

The Center for Tobacco Policy & Organizing promotes community organizing strategies to empower local coalitions to achieve tobacco policy change, and serves as a state tobacco control policy analysis and information resource. Please contact Meredith Nixon at (916)442-4299 or mnixon@alac.org if you would like more information about the Center or tobacco control policy issues.