

Legislative Update

April 17, 2008

In the two months since the deadline for introducing new bills (February 22), each of the three original tobacco-related bills (AB 2088, SB 1418 and SB 1598) were amended. The amendments made to AB 2088 removed all of the state tobacco retailer license provisions meaning that AB 2088 is no longer a tobacco-related bill. However, amendments to previously non tobacco-related bills have resulted in three new tobacco-related bills (AB 2344, AB 2662 and AB 3010), making a total of five tobacco-related bills for the second year of the 2007-2008 legislative session. With the deadline for bills to get passed by policy committees fast approaching, April 18 for fiscal bills and May 2 for non-fiscal bills, several of these bills had hearings in policy committees in the first three weeks of April. This legislative update contains summaries of all the new language and a status update for each bill.

AB 2088 (Beall – D, San Jose) Annual Fee for State Tobacco Retailer License (formerly)

This legislation was amended on April 7 and all the language related to the state tobacco retailer license and fee increases was removed from this bill. That language has been added to a different bill, AB 2344. Because of this amendment, AB 2088 is no longer a tobacco-related bill.

AB 2344 (Beall – D, San Jose) Annual Fee for State Tobacco Retailer License

On March 13 and April 8, this legislation was amended and would now make changes to the state tobacco retailer licensing program that is administered by the Board of Equalization. Under current law, all tobacco retailers in the state pay a one-time fee of \$100 for a state tobacco retailer license. This bill would make this fee an annual fee and would increase the fee to \$185. The new revenue from the annual \$185 fee would be used by the Board of Equalization for implementing, enforcing and administering the state tobacco retailer licensing program.

Status: AB 2344 was passed by the Assembly Governmental Organization Committee by a vote of 8-5 on April 16 and has been referred to the Assembly Appropriations Committee.

AB 2662 (Dymally – D, Los Angeles) Clarifying Tobacco Cessation Benefits for Medi-Cal

AB 2662 was amended on March 24 to specify the extent to which the Medi-Cal program covers tobacco cessation benefits and to maximize the effectiveness of providing these benefits. The bill would clarify that Medi-Cal tobacco cessation coverage includes both personal counseling and all Food and Drug Administration (FDA) approved tobacco cessation medication, including over-the-counter and prescription medications. The legislation would require that receipt of one of the two services (counseling or medication) cannot be made a precondition to use the other service. The Department of Health Care Services would be required to implement an outreach and education program to provide information about the tobacco cessation benefits to Medi-Cal participants, primary care providers and managed care contractors.

Status: AB 2662 was passed by the Assembly Health Committee by a vote of 12-5 on April 8. The bill has now been referred to the Assembly Appropriations Committee.

AB 3010 (Blakeslee – R, San Luis Obispo) Prohibiting Tobacco Use at State Mental Hospitals

On April 3 and April 10, this legislation was amended and would now prohibit tobacco use or possession by patients at state mental hospitals. It would also prohibit staff at state mental hospitals from using or possessing tobacco products except in staff housing areas where patients are not allowed. The Director of the Department of Mental Health would be responsible for adopting regulations to

implement this prohibition and would be encouraged to incorporate tobacco use cessation strategies in that plan.

Status: AB 3010 was passed by the Assembly Health Committee by a vote of 17-0 on April 15 and has been referred to the Assembly Appropriations Committee.

SB 1418 (Oropeza – D, Long Beach) Prohibiting Smoking at State Parks and State Beaches

Senate Bill 1418 would prohibit smoking at state parks and state beaches. On March 24, the bill was amended to not include adjacent parking lots at state parks and beaches within the smoking prohibitions and to make violations punishable by a fine of up to \$250.

Status: SB 1418 was pulled from a scheduled hearing before the Senate Natural Resources and Water Committee on March 25 at the author's request. No new hearing has been scheduled. The author's office has indicated that they are not moving forward with the bill this year.

SB 1598 (Padilla – D, San Fernando Valley) Authorizing Landlords to Prohibit Smoking in Rental Units

Senate Bill 1598 was amended on April 14 and would now authorize landlords to prohibit smoking on any part of the property they manage, including within dwelling units. For properties that adopt a smoking restriction, all leases or rental agreements entered into after January 1, 2009 would be required to include a provision specifying where smoking is prohibited. The bill also states that changes to the smoking policy for the property would constitute a change of terms of tenancy and requires adequate notice to tenants. Violations of a smoking prohibition would be considered a material violation of the rental agreement and allow the owner to issue a three-day notice.

This bill includes a grandfathering provision for all tenants that have signed a rental agreement prior to any new smoking prohibitions. These tenants would be able to continue to smoke in their unit even if the landlord designates their unit as non-smoking as long as they continuously reside in their current unit. The tenants would still have to abide by all other smoking prohibitions for the property, such as in common areas. Landlords in rent control jurisdictions would only be able to enact smoking restrictions as long as two conditions are met: (1) the rental agreement is executed after Jan. 1 2009 and (2) the prior tenancy ended in a voluntary vacancy or eviction for cause.

This bill also includes a provision that states that any city or county can enact an ordinance that prohibits smoking in residential property, including within dwelling units.

Status: SB 1598 has not been assigned to a committee yet.

Center for Tobacco Policy & Organizing, April 17, 2008

If you have questions about this analysis, please contact Justin Garrett, at (jgarrett@alac.org) or Paul Knepprath (pknepprath@alac.org) at (916) 554-5864 (LUNG). To view this update and past legislative updates, please visit www.Center4TobaccoPolicy.org.

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