



Legislative Update

July 15, 2008

Of the four tobacco-related bills that were passed by their house of origin prior to the deadline, only three are now alive in the California Legislature. Senate Bill 1598 was removed from consideration by the author, Senator Alex Padilla (D-San Fernando Valley), during the Assembly Judiciary Committee hearing. This bill would have authorized landlords to prohibit smoking in rental units but also permanently grandfathered in tenants who smoke as long as they continuously resided in their current unit.

The other three bills (AB 2344, AB 2662 and AB 3010) all met the deadline for being passed by the appropriate Senate policy committee and have all been referred to the Senate Appropriations Committee. AB 3010 was amended on July 1 and the bill summary reflects those amendments. The next deadline for these bills is to be passed by the Appropriations Committee by August 15. The Legislature was scheduled to be on recess for the month of July but will likely need to be in Sacramento for part of the time to continue work to pass a state budget because the June 30 deadline for enacting a budget was missed. However, legislative activity on the tobacco-related bills will likely not occur until August. The 2008 legislative session ends on August 31 and all bills will need to have been passed by both houses and sent to the Governor for his signature by that date.

In addition to the tobacco-related bills, there is a proposed constitutional amendment (SCA 13) in the Senate that would increase the tax on cigarettes. SCA 13 is unlikely to be passed or move forward this legislative session but the proposed constitutional amendment is not subject to the legislative deadlines that the tobacco-related bills are subject to, meaning that action on SCA 13 could be taken at any time.

For each bill, this legislative update contains a summary, status update and the position taken by the major voluntary health organizations – American Lung Association of California (ALAC), American Cancer Society (ACS) and American Heart Association (AHA).

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

AB 2344 would make changes to the state tobacco retailer licensing program that is administered by the Board of Equalization (BOE). 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. It would not change the annual \$1,000 fee for distributors and wholesalers. The new revenue from the annual \$185 fee would be used by the BOE for implementing, enforcing and administering the state tobacco retailer licensing program. Currently, the BOE utilizes money from Proposition 99, Proposition 10, the Breast Cancer Fund and the General Fund for these duties. If signed into law, this legislation would not take effect until January 1, 2010. **ALAC/ACS/AHA Position:** ALAC/ACS Support; AHA Neutral

Status: AB 2344 was passed by the Senate Revenue and Taxation Committee on June 25 by a vote of 5-2. The bill has now been referred to the Senate Appropriations Committee.

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

Currently, Medi-Cal requires patients to undergo a behavior modification program before they can be prescribed prescription drugs to assist them with quitting smoking. AB 2662 would eliminate that restriction by requiring that receipt of one of the two smoking cessation services covered by Medi-Cal, counseling or treatment by medication, cannot be made a precondition to use the other service. **ALAC/ACS/AHA Position:** ALAC/ACS Support; AHA Neutral

Status: AB 2662 was passed by the Senate Health Committee on June 18 by a vote of 8-1. It has now been referred to the Senate Appropriations Committee.

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

AB 3010 would authorize the Director of the Department of Mental Health, upon a request from the director of a state mental hospital, to prohibit tobacco use or possession at that state mental hospital. The Director of the Department would be required to provide an implementation plan, which must include a phase-in period, to prohibit tobacco use by patients and tobacco use by non-patients and staff on hospital grounds, except in staff housing areas where patients are not allowed. The implementation plan must require the Department to provide any requesting patient with a smoking cessation plan and prohibit the stores and canteens on hospital grounds from selling tobacco products. **ALAC/ACS/AHA Position:** ALAC/ACS Support; AHA Neutral

Status: AB 3010 passed the Senate Health Committee on June 18 by a vote of 9-0. The bill has now been referred to the Senate Appropriations Committee.

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

Senate Bill 1598 would authorize landlords to prohibit smoking on any part of the property they manage, including within units. 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.

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.

As currently written, SB 1598 contains a “grandfathering” provision for all tenants who 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 nonsmoking as long as they continuously reside in that unit. The tenants would still have to abide by all other smoking prohibitions for the property, such as in common areas.

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 units. **ALAC/ACS/AHA Position:** Oppose, unless amended

Status: Senator Padilla removed SB 1598 from consideration by the Assembly Judiciary Committee and the bill will not see any further legislative action.

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: (1) children’s health care; (2) tobacco cessation services; (3) lung cancer research (especially research related to early detection, prevention and treatment methods); (4) general health care (specifically to supplement the Medi-Cal program so that the funding does not fall below the funding level for the program in fiscal year 2007-2008); (5) children’s services (such as foster care services, child care services and child welfare services); (6) programs related to autism spectrum disorders; (7) universal dental care; and (8) elementary and secondary education school programs to provide meals, physical education classes and health classes.

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. **ALAC/ACS/AHA Position:** Support, if amended

Status: The June 25 hearing before the Senate Revenue and Taxation Committee was postponed and no new hearing has been scheduled at this time. It is unlikely that SCA 13 will move forward this session.

Center for Tobacco Policy & Organizing, July 15, 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>.

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