



California's Center for Tobacco Policy & Organizing

Legislative Update

June 11, 2008

The deadline for bills to get passed by their house of origin, either the Assembly or the Senate, was Friday, May 30. Four tobacco-related bills received floor votes (a vote by the full Assembly or full Senate) and were passed prior to that deadline. To get to this point, these bills had to go through the committee process, which means they were passed by policy committees and, if the bill has a financial impact, the Appropriations Committee. The three Assembly bills (AB 2344, AB 2662, and AB 3010) were amended in the Appropriations Committee prior to the floor votes and the bill summaries in this legislative update reflect those amendments. Since all bills must be passed by both the Assembly and the Senate to be sent to the Governor, all four bills will now move to the other house where they will go through the committee process again. The next major deadline for these bills is June 27, by which time they must be passed by the appropriate policy committees in the other house.

In addition to these four bills, a proposed constitutional amendment to increase the tax on cigarettes has been scheduled for a hearing by a Senate Committee. SCA 13, by Senator Tom Torlakson (D – Antioch) was introduced in 2007 but recently amended to change the programs that would be funded by a \$2.10 tax increase per pack of cigarettes. This proposed constitutional amendment is not subject to the legislative deadlines that the other bills are subject to and a complete summary is included in this update.

This legislative update contains bill summaries, a status update, floor vote details and the position taken on these bills 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 has not yet been referred to a Senate Committee.

Floor Vote: The Assembly passed AB 2344 on May 29 by a vote of 43-33.

Voted in Favor – Arambula, Bass, Beall, Berg, Brownley, Carter, Coto, Davis, De La Torre, De Leon, DeSaulnier, Dymally, Eng, Evans, Feuer, Fuentes, Furutani, Hancock, Hayashi, Hernandez, Huffman, Jones, Karnette, Krekorian, Laird, Leno, Levine, Lieber, Lieu, Ma, Mendoza, Mullin, Nava, Nunez, Portantino, Price, Ruskin, Salas, Saldana, Solorio, Swanson, Torrico, Wolk

Voted Against – Adams, Aghazarian, Anderson, Benoit, Berryhill, Blakeslee, Cook, DeVore, Duvall, Emmerson, Fuller, Gaines, Galgiani, Garcia, Garrick, Horton, Huff, Jeffries, Keene, La Malfa, Maze, Nakanishi, Niello, Parra, Plescia, Runner, Silva, Smyth, Spitzer, Strickland, Tran, Villines, Walters

Absent or Not Voting – Caballero, Calderon, Houston, Soto

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 Support; ACS Support, if Amended; AHA Neutral

Status: AB 2662 has been referred to the Senate Health Committee and is scheduled for a hearing on June 18.

Floor Vote: The Assembly passed AB 2662 on May 28 by a vote of 48-29.

Voted in Favor – Arambula, Bass, Beall, Berg, Brownley, Caballero, Calderon, Carter, Coto, Davis, De La Torre, De Leon, DeSaulnier, Dymally, Eng, Evans, Feuer, Fuentes, Furutani, Galgiani, Garcia, Hancock, Hayashi, Hernandez, Huffman, Jones, Karnette, Krekorian, Laird, Leno, Levine, Lieber, Lieu, Ma, Mendoza, Mullin, Nava, Nunez, Parra, Portantino, Price, Ruskin, Salas, Saldana, Solorio, Swanson, Torrico, Wolk

Voted Against – Adams, Aghazarian, Anderson, Benoit, Blakeslee, Cook, DeVore, Duvall, Emmerson, Fuller, Gaines, Garrick, Horton, Huff, Jeffries, Keene, La Malfa, Maze, Nakanishi, Niello, Plescia, Runner, Silva, Smyth, Spitzer, Strickland, Tran, Villines, Walters

Absent or Not Voting – Berryhill, Houston, Soto

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 to prohibit tobacco use or possession at any of the state mental hospitals. The Director would be able to adopt regulations that do one or both of the following: (1) prohibit tobacco use by patients and (2) prohibit tobacco use by non-patients and staff except in staff housing areas where patients are not allowed. If any of the above regulations are adopted at a hospital, then the stores and canteens on hospital grounds would be prohibited from selling tobacco products. If these regulations are adopted, the Department of Mental Health would be encouraged to pursue tobacco cessation strategies. **ALAC/ACS/AHA Position:** ALAC/ACS Support; AHA Neutral

Status: AB 3010 has been referred to the Senate Health Committee and is scheduled for a hearing on June 18.

Floor Vote: The Assembly passed AB 3010 on May 28 by a vote of 78-0.

Voted in Favor – Adams, Aghazarian, Anderson, Arambula, Bass, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Caballero, Calderon, Carter, Cook, Coto, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Dymally, Emmerson, Eng, Evans, Feuer, Fuentes, Fuller, Furutani, Gaines, Galgiani, Garcia, Garrick, Hancock, Hayashi, Hernandez, Horton, Huff, Huffman, Jeffries, Jones, Karnette, Keene, Krekorian, La Malfa, Laird, Leno, Levine, Lieber, Lieu, Ma, Maze, Mendoza, Mullin, Nakanishi, Nava, Niello, Nunez, Parra, Plescia, Portantino, Price, Runner, Ruskin, Salas, Saldana, Silva, Smyth, Solorio, Spitzer, Strickland, Swanson, Torrico, Tran, Villines, Walters, Wolk

Absent or Not Voting – Houston, Soto

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 their current 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:** No Position

Status: SB 1598 has not yet been referred to an Assembly Committee.

Floor Vote: The Senate passed SB 1598 on May 29 by a vote of 22-16.

Voted in Favor – Alquist, Calderon, Cedillo, Corbett, Florez, Kehoe, Kuehl, Lowenthal, Maldonado, Oropeza, Padilla, Perata, Ridley-Thomas, Romero, Scott, Simitian, Steinberg, Torlakson, Vincent, Wiggins, Wyland, Yee

Voted Against – Aanestad, Ackerman, Ashburn, Battin, Cogdill, Correa, Cox, Denham, Ducheny, Dutton, Harman, Hollingsworth, Margett, McClintock, Negrete McLeod, Runner

Absent or Not Voting – Machado, Migden

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: SCA 13 has been scheduled for a hearing by the Senate Revenue and Taxation Committee on June 25.

Center for Tobacco Policy & Organizing, June 11, 2008

If you have questions about this analysis, please contact Justin Garrett, at (jgarrett@alac.org) or Paul Kneprath (pkneprath@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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