



Legislative Update

May 6, 2010

On Monday, May 3, Governor Arnold Schwarzenegger vetoed Senator Jenny Oropeza's Senate Bill 4. This legislation would have prohibited smoking at state beaches and allowed park district superintendents to prohibit smoking at the state parks under their control. There were exceptions to the state beaches prohibition and no funds would have been allocated for signage and enforcement, see the full summary below. In his [veto message](#) the Governor provides his reasons for the veto which include concerns about intruding on people's lives, that the Department of Parks and Recreation already has the authority it needed to prohibit smoking due to fire danger and the bill's lack of impact on marine debris.

There are several other tobacco-related bills active in the legislature that have begun to move through the committee process and meet key deadlines for getting passed by policy committees. In addition several of these bills have been amended in the last month. One new tobacco-related bill was created when AB 2757 was amended from an unrelated bill into legislation that would prohibit the sale of blunt wraps in businesses where minors are allowed to enter. Full details about all of these bills are contained in the below legislative update including updated summaries (with details about amendments), status updates and next steps. The next major deadline for these bills is to be passed by the appropriate fiscal committees prior to May 28.

For more information about these bills and to track them throughout the 2010 legislative session, visit the Center's Bill Tracker at www.Center4TobaccoPolicy.org/bills. The Bill Tracker contains details about how members have voted, lists of organizations that support or oppose the bills and other information.

AB 2496: Reducing Evasion of MSA Payments and Cigarette Tax Payments (Nava – D, Santa Barbara)

Assembly Bill 2496 would make several changes to state law to make it more difficult for cigarette manufacturers to avoid paying the proper Master Settlement Agreement (MSA) payments and tax payments. All cigarette manufacturers that distribute and sell cigarettes in California make payments to the state in accordance with the MSA, which was approved in 1998 by 46 states and several major tobacco manufacturers. These MSA signatories, or "original participating manufacturers" (OPMs), are required to make annual payments to the state. Those that did not sign the MSA, or "nonparticipating manufacturers," (NPMs) are required to make annual payments into an escrow account to cover any future legal costs incurred in the event that the state brings legal action against these manufacturers. AB 2496 would enact requirements to ensure that these payments are made (especially for new, foreign and elevated risk NPMs) and would make it easier to remove manufacturers that do not make these payments from the tobacco directory. The tobacco directory is a list maintained by the Attorney General that lists which manufacturers and brands of cigarettes are legal to sell in California. In addition, the bill would allow NPMs that go out of business to give the money in its escrow account to the state. Finally, this bill would expand the definition of bidis or beedies in state law to include any product that is marketed and sold as bidis or beedies. Under current law, bidis or beedies can only be sold at a business that prohibits minors on its premises. **Amendments:** On April 14, AB 2496 was amended to exclude language that would change the definition of little cigars.

Status – AB 2496 was passed by the Assembly Governmental Organization Committee (17-1 on April 12) and the Assembly Judiciary Committee (8-1 on April 20).

Next Steps – The bill has been referred to the Assembly Appropriations Committee.

AB 2733: Making Changes to State Tobacco Retailer Licensing Law (Ruskin – D, Redwood City)

Assembly Bill 2733 would prohibit tobacco retailers from giving away or displaying for sale tobacco products during a period when the retailer's state tobacco retailer license has been suspended or revoked. Under current

law, a retailer is prohibited from selling tobacco products during a period of suspension or revocation but there is ambiguity in the law related to the restrictions on giving away products or displaying products during this period. This bill would prohibit a tobacco retailer from gifting, sampling or giving away tobacco products during the suspension period. In addition, cigarettes and tobacco products could not be displayed for sale in any manner (such as in retail shelves or in a vending machine) during a period of suspension. Violations for giving away tobacco products would be punishable as a misdemeanor, with repeated violations resulting in the seizure of all tobacco products in the retailer's possession. Violations for displaying tobacco products during a period of suspension would be punishable by a civil penalty for \$1,000. Finally, a retailer whose license has been suspended or revoked would be required to display a notice at each public entrance to the retail location and at each point of sale.

Status – AB 2733 was passed by the Assembly Governmental Organization Committee (17-0 on April 12) and the Assembly Judiciary Committee (9-0 on April 20).

Next Steps – The bill has been referred to the Assembly Appropriations Committee.

AB 2757: Restricting the Sale of Blunt Wraps (Bradford – D, Inglewood)

Assembly Bill 2757 would make it a misdemeanor to sell, offer for sale, distribute, or import by prohibiting the sale of blunt wraps in business establishments that allow persons under 18 years of age on its premises. Under existing law, it is illegal to sell, give, or furnish to a person under 18 years of age any tobacco product or paraphernalia, including blunt wraps (defined as cigar papers or wrappers containing less than 50% tobacco). AB 2757 would amend Section 308.1 of the Penal Code, and any person who violates this section would be guilty of a misdemeanor or subject to a civil action brought by the Attorney General, a city attorney, county counsel, or district attorney for an injunction and a civil penalty of up to two thousand dollars (\$2,000) per violation. AB 2757 is modeled after previous legislation authored by Senator Deborah Ortiz (SB 322, Chapter 375 of 2001) that similarly restricted the sale of a tobacco product known as “bidis.”

Status – AB 2757 was passed by the Assembly Governmental Organization Committee (21-0 on April 21).

Next Steps – The bill has been referred to the Assembly Appropriations Committee.

SB 4: Restricting Smoking in State Parks and State Beaches (Oropeza – D, Long Beach)

Senate Bill 4 would restrict smoking at state beaches and state parks. Smoking would be prohibited at all state beaches. However, the smoking restrictions would not apply to any part of the state beach that is designated as a campsite and the Oceano Dunes State Vehicular Recreation Area would be exempted from the restrictions. Smoking would not be prohibited at state parks but rather the authority to prohibit smoking in state parks would be given to each park district superintendent for the parks under their control. The smoking prohibitions would not include parking lots at state parks and beaches and violations would be punishable by a fine of \$100. New signs about the smoking prohibition would only be posted when existing signs are going to be replaced for other reasons and the Department of Parks and Recreation or another relevant state agency would be responsible for developing and posting the signs. The smoking prohibitions can only be enforced after signs are posted to notify the public of the smoking prohibitions. However, warnings would be allowed to be issued prior to the signs being posted. Finally, these smoking prohibitions could only be enforced using the existing resources of the Parks Department.

Status – SB 4 was passed by the full Assembly (42-27 on March 22) and full Senate (21-13 on April 15) and was sent to the Governor. On May 3, the Governor vetoed SB 4. The [veto message](#) contains the explanation for his veto.

Next Steps – The legislature can override the Governor's veto with a 2/3 vote in each house. However, since SB 4 did not receive 2/3 vote in either house when originally passed, it is unlikely that the legislature would attempt to override the veto.

SB 220: Requiring Health Insurance Policies to Cover Tobacco Cessation Services (Yee – D, San Francisco)

SB 220 would require health care service plan contracts and individual or group health insurance policies that provide outpatient prescription drug benefits to include coverage of tobacco cessation services for all plans issued or renewed after July 1, 2011. This cessation coverage would be required to include two courses of treatment in a 12-month period including personal counseling (telephone or in-person) and FDA-approved medication for tobacco cessation (including prescription and over-the-counter). The bill would require that no copayment or deductible be applied to benefits for over-the-counter medications and would set a limit of \$15 for copayments for each course or prescription. This cessation services coverage must be disclosed in the disclosure forms to enrollees. Health care service plans and health insurers could contract with any qualified provider (profit or non-profit) to provide the cessation services.

Status – SB 220 was amended into a tobacco-related bill on March 11, 2010. The previous unrelated version of the legislation passed the full Senate and several Assembly committees in 2009.

Next Steps – Now that the legislation has been amended, it will await further action by the Assembly and if passed would be sent back to the Senate, which must pass the bill again with the new language.

SB 882: Authorizing Enforcement Against Sales of Electronic Cigarettes to Minors (Corbett – D, San Leandro)

Senate Bill 882 would make it illegal to sell or distribute electronic cigarettes to people under the age of 18. This bill would require cities and counties to revoke the license of a business that on two or more occasions provides or offers to provide electronic cigarettes to a person under 18 years of age. This bill specifically states that cities and counties could enact local ordinances that contain more restrictive regulations of e-cigarettes. **Amendments:** On April 5, SB 882 was amended so that the bill no longer relates to suspending a tobacco retailer license for sales of e-cigarettes to minors. On April 28, SB 882 was amended to clarify that local jurisdictions are not preempted from enacting additional restrictions.

Status – SB 882 was passed by the Senate Business, Professions and Economic Development Committee (5-2 on April 19) and Senate Health Committee (9-0 on May 5).

Next Steps – The bill has now been referred to the Senate Appropriations Committee.

SB 1109: Redirecting Funds from the Proposition 10 Tobacco Products Tax (Cox – R, Fair Oaks)

Senate Bill 1109 would eliminate the current allocations of Proposition 10 tobacco tax revenue and instead allocate this money for the Healthy Families and Medi-Cal programs. Under current law, Proposition 10 tobacco tax revenue is allocated to the California Children and Families Trust Fund for early childhood development and smoking prevention programs. This bill would eliminate those allocations and abolish the California Children and Families Commission and the county commissions. SB 1109 would allocate these funds to the state general fund to be appropriated for the Healthy Families and Medi-Cal programs. This legislation would not impact the funds that are currently transferred from the Proposition 10 tobacco tax to the Proposition 99 accounts to make up for lost revenue from the new tax, what is known as the Proposition 99 backfill. Because this legislation would amend an initiative that was passed by the voters, it would need to be approved by a 2/3 vote in both houses and also be approved by California voters in a statewide election.

Status – SB 1109 failed to pass the Senate Health Committee (2-6 on April 14).

Next Steps – The bill was granted reconsideration but no new hearing has been scheduled yet.

Center for Tobacco Policy & Organizing, May 6, 2010

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

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

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