

Legislative Update

May 8, 2008

Four of the five tobacco-related bills (AB 2344, AB 2662, AB 3010 and SB 1598) were passed by policy committees prior to the policy committee deadline and will continue forward in the legislative process. SB 1418 (Oropeza – D, Long Beach) dealing with smokefree beaches and parks, did not meet that deadline and will not see any further legislative action this year.

The three Assembly bills were all placed on the Appropriations Committee suspense file, because they have been tagged with having costs to the state of \$150,000 or above. These bills will remain there until the Appropriations Committee has a hearing to determine which bills will come out of the suspense file and receive floor votes. Determining which bills make it out of the suspense file is based on a lot of different factors such as the cost of the bill, the support of leadership and how high a priority the bill is for the author. This suspense file hearing will likely occur the week of May 19-23. For SB 1598 and whichever Assembly bills make it out of the suspense file, the next step is a floor vote in either the Assembly or the Senate, which must occur on or before the May 30 house of origin deadline.

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 takes money from Proposition 99, Proposition 10, the Breast Cancer Fund and the General Fund for these duties.

Status: On April 30, the Assembly Appropriations Committee placed the bill on the suspense file where it awaits further action.

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

AB 2662 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: On April 23, the Assembly Appropriations Committee placed the bill on the suspense file where it awaits further action.

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

AB 3010 would 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: On April 30, the Assembly Appropriations Committee placed the bill on the suspense file where it awaits further action.

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. The smoking prohibitions would not include adjacent parking lots at state parks and beaches and violations would be punishable by a fine of up to \$250.

Status: SB 1418 did not meet the deadline for being passed by a policy committee and will see no further legislative action this year.

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 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 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.

Status: SB 1598 was passed by the Senate Judiciary Committee on April 29 by a vote of 3-2. The next step for this legislation is a vote by the full Senate. During the April 29 hearing, the Committee discussed amending the bill to replace the grandfathering provision with a one-year notice requirement. At this point no final decision has been made and the bill has not been amended, but it is possible that the bill will be amended before a floor vote occurs.

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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>.