



Legislative Update

March 5, 2009

The deadline for introducing new bills for the 2009 legislative session of the California Legislature was Friday, February 27. A total of eleven tobacco-related bills have been introduced. These bills cover a wide range of tobacco control issues, including raising the state's tobacco tax, restricting smoking at hospitals, state parks, and state beaches and restricting the issuance of new state tobacco retailer licenses.

Over the next several months, various committees will hold hearings and vote on these bills as they move forward in the legislative process. For frequent updates about the status of these bills, as well as vote details, news coverage and tobacco industry lobbying information, use the Center's Bill Tracker at www.Center4TobaccoPolicy.org/bills.

Below is the latest legislative update with summaries and status updates for all the tobacco-related bills that have been introduced for the 2009 legislative session.

ASSEMBLY BILLS

AB 89: Increasing the Tax on Cigarettes (Torlakson – D, Antioch)

Assembly Bill 89 would raise the state tax on cigarettes by \$2.10/pack. The revenue generated from this tax would be appropriated to: (1) education; (2) children's health care; (3) tobacco cessation services; (4) lung cancer research; and (5) general health care. Because this legislation would increase taxes, it requires a 2/3 vote to pass the Assembly and the Senate.

Status – AB 89 has been referred to the Revenue and Taxation Committee and the Governmental Organization Committee.

AB 574: Reducing Secondhand Smoke Exposure at Hospitals (Hill – D, San Mateo)

Assembly Bill 574 would authorize the Department of Public Health to establish a program to reduce the risks of tobacco smoke exposure for hospital patients, staff and visitors and to encourage and assist these individuals to quit smoking. Currently this bill is a "spot bill," which means that it simply states the intent to establish this program but does not provide any details. This is done in order to meet the deadline to introduce legislation while allowing the author to amend the bill once language and/or policy has been decided upon.

Status – AB 574 has not yet been referred to a committee.

AB 625: Prohibiting Sale or Distribution of Novelty Lighters (Lieu – D, Torrance)

Assembly Bill 625 would prohibit all manufacturers, distributors, importers or retailers from selling, distributing or offering for promotion an operable novelty lighter. A novelty lighter would be defined as any lighter typically used for lighting cigarettes, cigars or pipes that is (1) designed to appear as a toy; (2) has audio or visual effects; or (3) resembles in form or function, objects typically recognized as appealing to persons under the age of 18. Violations would be punishable as an infraction with a fine of up to \$500. Enforcement would be handled by the State Fire Marshal, any police officer or any local code enforcement officer.

Status – AB 625 has not yet been referred to a committee.

AB 689: Changing the Definition of a Tobacco Product (Calderon – D, Montebello)

Assembly Bill 689 would change the definition of a tobacco product in the Revenue and Taxation Code. Under current law, a tobacco product is defined as all products made of or containing at least 50 percent tobacco, except for cigarettes. AB 689 would change that definition to include all products that contain any amount of tobacco. Because it would modify the Tobacco Tax and Health Protection Act of 1988 (Proposition 99), it requires a 4/5 vote to pass the Assembly and the Senate and must be consistent with the purposes of Proposition 99.

Status – AB 689 has not yet been referred to a committee.

SENATE BILLS**SB 4: Prohibiting Smoking at State Parks and State Beaches (Oropeza – D, Long Beach)**

Senate Bill 4 would prohibit smoking at state parks and state beaches. The smoking prohibitions would not include parking lots at state parks and beaches and violations would be punishable by a fine of \$250. 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.

Status – SB 4 has been referred to the Natural Resources and Water Committee.

SB 53: Authorizing the Attorney General to Negotiate Amendments to the Master Settlement Agreement (DeSaulnier – D, Concord)

Senate Bill 53 would authorize the Attorney General to negotiate amendments to the Master Settlement Agreement (MSA). Under current law, the Attorney General is unable to agree to any amendments with the other 46 settling states and negotiate changes to the MSA even if these changes would result in increased MSA payments. At the state level, MSA payments were sold to a special purpose trust and bonds were issued by that trust. The amendments negotiated by the Attorney General could not materially adversely alter, limit or impair the rights and remedies of these bondholders, the security of their bonds or the rights of the participating jurisdictions (the counties and cities that receive MSA funds) to receive MSA payments. This legislation is an urgency bill, meaning that it would take effect immediately upon being signed into law.

Status – SB 53 has been referred to the Judiciary Committee.

SB 57: Making Changes to the Major Risk Medical Insurance Program (Aanestad – R, Grass Valley)

Senate Bill 57 would make several significant changes to the Major Risk Medical Insurance Program (MRMIP) including changes to the eligibility requirements and increases to the annual benefit limit. There are two tobacco-related provisions in the bill. First, SB 57 would allow the Major Risk Medical Insurance Board, which administers MRMIP, to develop risk categories for tobacco use and morbid obesity. Risk categories determine program contribution amounts and the current risk categories are based on age and geography. The risk category for tobacco use would include objectives for the reduction of tobacco use and allow for rate reductions if those objectives are met. Second, this legislation would increase the amount of funds for MRMIP from two Prop 99 accounts. In the Hospital Services Account funding would increase from \$18 million to \$23 million and in the Physician Services Account funding would increase from \$11 million to \$16 million. Neither of these accounts fund tobacco control programs.

Status – SB 57 has been referred to the Health Committee.

SB 600: Increasing the State Tobacco Tax (Padilla – D, San Fernando Valley)

Senate Bill 600 would raise the state tax on cigarettes by \$1.50 per pack, with equivalent increases for other tobacco products (cigars, smokeless tobacco, etc.). Each year, in order to offset inflation and further reduce smoking prevalence, this tax will be adjusted by the state Board of Equalization based on the percentage increase in the California Consumer Price Index. Eight-five percent of the new revenues would be deposited into the state's General Fund. The other fifteen percent of revenues would be allocated into the newly created Tobacco Tax and Health Protection Fund. The revenues in this account would be divided as follows: (1) 65% to the Department of Public Health, Tobacco Control Program to fund tobacco control programs including local health departments, competitive grants and media; (2) 15% to the Department of Education for programs to prevent or reduce tobacco use; (3) 10% to the University of California for tobacco related research; and (4) 10%

to the University of California for the establishment and administration of a Lung Cancer Early Detection and Treatment Research Program. Finally, this bill would also include backfills (transferring funds to programs to replace revenues lost because of a reduction in tobacco sales due to this new tobacco tax increase) to other existing tobacco tax funded programs such as the non-tobacco control related Prop 99 accounts, the breast cancer fund, and Prop 10. Because this legislation would increase taxes, it requires a 2/3 vote to pass the Assembly and the Senate.

Status: SB 600 has not yet been referred to a committee.

SB 601: Restricting Eligibility for State Tobacco Retailer License (Padilla – D, San Fernando Valley)

Senate Bill 601 would make changes to the California Cigarette and Tobacco Products Licensing Act that was adopted in 2003 and that created the state tobacco retailer license. This bill would prohibit a license from being issued for any retailer that is located within 1,000 feet of a public or private elementary or secondary school. SB 601 would also only allow a state tobacco retailer license to be issued to traditional tobacco retailers, which is defined as a grocery store, convenience store, pharmacy, liquor store, or a tobacco or cigar store.

Status: SB 601 has not yet been referred to a committee.

SB 602: Restricting State Tobacco Retailer Licenses and Revising the STAKE Act (Padilla – D, San Fernando Valley)

Senate Bill 602 restricts the issuance of state tobacco retailer licenses and would make changes to the Stop Tobacco Access to Kids Enforcement (STAKE) Act. This legislation would prohibit a new state tobacco retailer license from being issued to any retailer located in an area of overconcentration, which is defined as an area where the ratio of retailer licenses to population in the census tract is greater than the ratio of retailer licenses to population in the county overall. In addition, under current law, the Board of Equalization (BOE) can only take action against retailers for violations of the STAKE Act for sales to minors if the state youth purchase survey is higher than 13 percent. This legislation would delete that language and allow BOE to take enforcement action regardless of the state youth purchase survey numbers. This bill would also require the Department of Public Health or any other enforcement agency to inform BOE of any conviction of a violation of the STAKE Act or Penal Code Section 308 (which prohibits sale and distribution of tobacco products to minors).

Status: SB 602 has not yet been referred to a committee.

SB 603: Creating Annual Fee for and Limiting Issuance of State Tobacco Retailer License (Padilla – D, San Fernando Valley)

Senate Bill 603 would make changes to the California Cigarette and Tobacco Products Licensing Act that was adopted in 2003 and that created the state tobacco retailer license. Under current law, tobacco retailers pay an initial application fee of \$100 and no fee for annual renewal of that license. This legislation would require retailers to pay an annual \$100 renewal fee. SB 603 would also limit the number of tobacco retailer licenses to one license per 2,500 county persons over 18 years of age. The Board of Equalization would be prohibited from issuing new tobacco retailer licenses in any county in which the number of current licenses is greater than one per 2,500 persons over 18 years old.

Status: SB 603 has not yet been referred to a committee.

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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/bills.

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

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