

Region 1—New England

LEGISLATIVE Update

The Tobacco Institute

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REGIONAL TOPICS

In case you suspected that you live in one of the most anti-tobacco regions in the country--you were right! As of March 1, 85 pieces of tobacco-related legislation have been introduced in the New England states. The breakdown by state: Connecticut-2, Maine-7, Massachusetts-38, New Hampshire-9, Rhode Island-20, and Vermont-9. That's almost 33 percent of all the anti-tobacco bills introduced in the nation.

For the first time, informational conference calls with the New England TAC members and The Tobacco Institute legislative counsels were conducted in January and February. It is likely that these will continue on a monthly basis throughout 1986. The format is informal and intended to allow each group to have as much input as possible.

Dr. Philip Witorsch, Medical Director, Center for Environmental Health and Human Toxicology in Washington, DC, taped a response to a January 18 WNEV-TV Channel 7 Boston editorial favoring bans on smoking in public places. Dr. Witorsch stated, "The simple fact is that there is no persuasive evidence that environmental tobacco smoke presents a chronic health risk to the nonsmokers." The editorial aired on Monday, 3/3 on Channel 7 in Boston. (See Insert for full text.)

CONNECTICUT TOPICS

Prior to the 2/5 convening of the legislature, the Joint Labor & Public Employees Committee held an informal hearing and decided to introduce "raised committee bill" H5095.

The bill proposes to expand upon the existing smoking-in-the-workplace law by mandating the establishment of nonsmoking sections, reducing the size of the companies involved to those with 20 or more employees (the current level is 50), and providing for enforcement mechanisms and fines. A hearing before the Joint Labor & Public Employees Committee is scheduled for 3/6. Similar legislation was considered and defeated by the same committee during the 1985 session.

Attorney General Joseph Lieberman and Public Health Commissioner Doug Lloyd have

been suggesting a need for smokeless tobacco warning label legislation since the end of the 1985 session. The enactment of S1574, the "Comprehensive Smokeless Tobacco Health Education Act of 1986" has eliminated the need for this type of state legislation. Neither the labeling nor any other smokeless tobacco-related legislation has actually been introduced in Connecticut this session. (See National Topics for additional info.)

MAINE TOPICS

A so-called "technical drafting error" on L.D.1968 would prohibit the sale and distribution of smokeless tobacco products. According to the sponsor, the intent was to prohibit sampling only. Under a 1983 law, sampling is entirely prohibited to minors. However, the new

law would extend the prohibition to adults. L.D.1968 originally provided for warning labels and a \$.20 tax on smokeless tobacco products. The warning label section has been dropped as a result of the enactment of S1574, the "Comprehensive Smokeless Tobacco Health Education Act of 1986." However, the Joint Taxation Committee held a hearing on L.D.1968 on 2/25 and continued to press for a cigarette-type tax on smokeless tobacco products and sampling prohibitions. Further worksessions are anticipated.

On 2/4 L.D.1690, the restaurant policy notice bill, was APPROVED by the Joint Human Resources Committee. The House of Representatives subsequently took similar action and sent the bill to the Senate for final approval. However, Senate President Pray promptly ruled that L.D.1690 fell under legislative Joint Rule 37, covering bills defeated in previous sessions of the legislature. Because of this ruling, continued action on L.D.1690 is possible only by a two-thirds vote in both houses.

A hearing was held on L.D.238, a 1985 carryover bill making the \$.08 tax contingent on the federal sunset. The intent of the bill was to keep the state tax at \$.20 unless the federal tax actually went down by \$.08 on 10/1/85. The Joint Taxation Committee reported the bill "unanimous leave to withdraw." The intent was preempted when the state tax increased by \$.08 on 10/1/85.

MASSACHUSETTS TOPICS

33 additional tobacco-related bills were introduced during the month of February. Four of these new bills propose to PROHIBIT smoking in the Commonwealth. The anti-tobacco zealots are finally flying their true prohibitionist colors.

In other action, the Joint Taxation Committee held a hearing on all tobacco excise tax measures on 2/27. Included were: smokeless tobacco taxes, cigarette rolling paper tax, earmarking, \$.08 increase, and a repeal of the cigarette excise tax. The committee took no action on any of the measures.

A 4/7 hearing date has been scheduled on all anti-tobacco measures before the Joint Commerce & Labor and Joint Health Care Committees.

During February, it appears that the Massachusetts Bay Transportation Authority (MBTA) staff decided that the Authority would forego almost \$1 million in annual revenues derived from cigarette advertising in MBTA facilities and on its vehicles. The new advertising contracts will propose a ban on the sale of advertising space to cigarette manufacturers as of 10/1/86, when the new contracts take effect. Legislation having the same effect is currently under consideration by the Joint Transportation Committee, where it has been rejected in previous years. "This proposed action may be in violation of the "Comprehensive Smoking Education Act of 1984" which preempts "...requirement or prohibition based on smoking and health...imposed under State Law with respect to advertising or promotion of any cigarettes the packages of which are labeled in conformity with the provisions of this act." Further action is likely.

NEW HAMPSHIRE TOPICS

After receiving approval from the House Health & Human Services Committee, H35, grocery stores, and H133, workplace, were APPROVED on the House floor. The bills have been assigned to the Senate Public Institutions/Health Care Committee, and a hearing date has been set for 3/12.

Hearings were held on all tax bills before the House Ways and Means Committee, and a hearing has been set for 3/5 on the companion tax bill before the Senate Ways and Means Committee. This legislation merely clarifies the somewhat convoluted language of the state cigarette excise tax.

Last year's S85, prohibiting sales to minors under 18, was redrafted during the summer "interim study" and re-introduced as H125-FN. The new bill has the support of the Legislature and the New Hampshire Retail Grocers Association, and approval is anticipated. The grocers had expressed concern over the original fines and penalties contained in S85.

50498 8864

Statement by the AFL-CIO Executive Council

on

Smoking and the Workplace

February 19, 1986
Bal Harbour, FL

The 1985 Surgeon General's Report on The Health Consequences of Smoking -- Cancer and Chronic Lung Disease in the Workplace -- has focused new attention on smoking and occupational disease. The report purports to be a review of available scientific evidence on the combined risks of smoking and exposure to known occupational hazards. Rather than shedding light and contributing new information on the occupational health problems faced by many workers, the report minimizes the risks posed by workplace toxins. Broad conclusions are reached that smoking poses a greater risk to workers than their workplace environment, yet there is no evidence in the document to support these findings. The AFL-CIO believes that employers will attempt to use the report to shirk their responsibility to clean up the workplace and to place blame for occupational disease on workers who smoke.

The labor movement recognizes that smoking is a major public health problem of concern to both smokers and non-smokers and that there are real issues related to smoking and the workplace that should be addressed.

It is well documented that employers' failure to control exposures to toxic substances in the workplace increases the risk of disease for many workers. For workers exposed to some of these hazards, such as asbestos, there is evidence that smoking may further increase the risk of certain diseases. Our first priority is to limit exposures to toxic substances to reduce the risk of all exposed workers. We support programs to provide medical surveillance, education and counseling about the risks of disease to workers at high risk. Such programs should address the dangers of exposure to toxic substances and the added risk that may be posed by smoking, and provide assistance to those workers who wish to quit smoking. Many unions have already implemented these kinds of education and assistance programs.

We oppose employer discrimination against hiring of smokers and employer proposals to mandate the removal of smokers from certain jobs or to require participation in smoking cessation programs as an excuse not to meet their responsibility to clean up the workplace. Employers should not be allowed to shift the burden to individual workers.

Proposals to ban smoking in the workplace are also increasing. Unions are faced with legislation or unilaterally imposed employer policies that forbid smoking on the job and infringe on the rights of workers who smoke. Unions have a legal responsibility to represent the interests of all their members -- smokers and non-smokers. The AFL-CIO believes that issues related to smoking on the job can best be worked out voluntarily in individual workplaces between labor and management in a manner that protects the interests and rights of all workers and not by legislative mandate.

The AFL-CIO is committed to improving the working conditions and health of all our members. We urge our affiliated unions to continue their efforts to reduce workplace hazards and to provide voluntary assistance and education to workers who smoke as part of ongoing comprehensive programs to improve the health of union members.

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50498 8855

EDITORIAL RESPONSE

A January 18 editorial by the management of Channel 7 urged the Massachusetts Legislature as well as private employers to ban smoking in the workplace and in all public places in Massachusetts. As justification for such action, the editorial suggested that tobacco smoke in the air--i.e., environmental tobacco smoke--has been shown to be a health hazard to nonsmokers.

As a physician and scientist, I take no position on the appropriateness of public or workplace smoking bans. I am happy to leave that policy decision to the Commonwealth's elected representatives, individual employers, and their employees. It would be unfortunate, however, if discussions concerning public and workplace smoking proceeded on the basis of scientific data which has been manipulated to accomplish a socio-political end irrespective of the social value of that end. I am referring to justifying various smoking bans on the presumption that environmental tobacco smoke represents a chronic health hazard to the nonsmokers.

The simple fact is that there is no persuasive evidence that environmental tobacco smoke presents a chronic health risk to the nonsmoker. In fact, careful and objective review of the available scientific data suggests that this is unlikely, especially in the context of the level of exposure likely to occur in public places and the workplace. That is the conclusion of every major independent scientific body that has examined the issue, including groups convened by the National Institutes of Health, the World Health Organization, the International Green Cross, the University of Geneva, the Austrian Ministry of Health, and a number of other European governmental and public health groups. While suggestions to the contrary have been made, such as in the Channel 7 editorial and in some scientific publications, such suggestions are credible only if one is willing to ignore accepted scientific criteria and evaluation techniques and suspend critical analytical judgment.

We should pay more attention to the quality of indoor air. Environmental tobacco smoke may be part of the total problem of indoor air pollution but, from a number of studies, not the most significant component, other than that it is the most visible one. The available scientific evidence suggests that while tobacco smoke in the air is often the most easily identifiable consequence of inadequate ventilation, it is far from the most health-threatening and cannot be used as a surrogate for indoor air pollution. The suggestion that the health implications of poor indoor air will be magically eliminated by banning smoking is scientifically unfounded and misleading. Those scientists who make such a suggestion would appear to be confounding their scientific judgment with their personal agenda and, in so doing, offend both science and common sense and do a disservice to public health and society.

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5098 8855

SUMMARY OF INTRODUCED LEGISLATION

STATE	BILL	ISSUE	STATUS
CT	* H 5095	Workplace	J Labor & Pub Emp
	* LCO XXX	Smokeless Warning Labels	Approved for Intro
ME	L.D. 238	Taxation - Roll Back	J Taxation
	L.D. 1690	Restaurant Policy Notice	Senate Floor
	L.D. 1752	Smokeless Warning Labels	J Human Resources
	* L.D. 1968	Smokeless Warning Labels, Taxation, Sampling	J Taxation
	L.R. 5176	Smokeless Warning Labels	DEFEATED - L.D. 1690
	L.R. 5351	Smokeless Sales to Minors	DEFEATED - L.D. 1690
L.R. 4970	Restrictions - Restaurants	DEFEATED	
MA	H 159	Transmittal Letter w/ Smokeless	J Health Care
	H 168	Smokeless Warning Labels, Nicotine Content, Sampling	J Health Care
	H 169	Taxation - Smokeless	J Taxation
	H 720	Prohibition of Smoking	J Health Care
	H 1603	Taxation - Earmarking	J Taxation
	* H 1657	Restrictions - Public Places	J Health Care
	* H 1848	Restrictions - Beano games	J Health Care
	* H 1853	Restrictions - Public Places	J Health Care
	* H 2018	Workplace	J Health Care
	* H 3282	Taxation - Earmarking	J Taxation
	* H 3353	Restrictions - Nursing Homes	J Health Care
	* H 3542	Self-Extinguishing	J Health Care
	* H 3715	Restrictions - Public Places	J Health Care
	* H 3750	Insurance	J Insurance
	* H 3889	Study Commission - Restrictions	J Health Care
	* H 4034	Taxation - repeal of excise	J Taxation
	* H 4300-A	Misc - Emerg. Serv. Employee Pension	J Public Service
	* H 4448	Prohibition of Smoking	J Health Care
	* H 4580	Prohibition of Smoking	J Health Care
	* H 4587	Restaurants - Ventilation Exemp.	J Health Care
	* H 5188	Taxation - Rolling Paper	J Taxation
	* S 61	Advertising, Sponsorship	J Commerce & Labor
	* S 77	Advertising - Taxicabs	J Commerce & Labor
	* S 78	Advertising - Billboards	J Commerce & Labor
	* S 79	Sampling	J Commerce & Labor
	* S 174	Prohibition of Smoking	J Criminal Justice
	* S 368	Resolution - Hazardous Substances	J Fed. Fin. Asst.
	* S 370	Resolution - Consumer Product Safety	J Fed. Fin. Asst.
	* S 371	Resolution - Toxic Substances Control	J Fed. Fin. Asst.
	* S 372	Resolution - Ingredients List	J Fed. Fin. Asst.
	* S 452	Sales - Health Care Facilities	J Health Care
	* S 734	Insurance	J Insurance
* S 771	Insurance	J Insurance	
* S 863	Prohibition of Smoking	J Judiciary	
* S 900	Restrictions - Jury Rooms	J Judiciary	
* S 1538	Taxation - Smokeless	J Taxation	
* S 1591	Advertising - MBTA	J Transportation	
* S 1592	Sales - MBTA	J Transportation	
NH	H 35	Restrictions - Grocery Stores	House Floor
	H 125-FN	Sampling, Sales to Minors	H Ways and Means
	H 133	Restrictions - Workplace	House Floor
	H 179	Taxation - Misc.	H Ways and Means
	H 370-FN	Taxation (Comp. to S 92-FN)	H Ways and Means
	S 92-FN	Taxation (Comp. to H 370-FN)	S Ways and Means
	LSR 181	Sales Restrictions - Vending Machines	DEFEATED
	LSR 182	Sales Restrictions - Vending Machines	DEFEATED
	LSR 275	Smokeless Warning Labels	DEFEATED

RI	H 5075	Sales to Minors	H HEW
	H 5076	Restrictions - Workplace	H HEW
	H 5590	Taxation - Sunset	H Finance
	H 5591	Taxation - Earmarking	H Finance
	H 5592	Taxation - Earmarking	H Finance
	H 5593	Taxation - Earmarking	H Finance
	H 5811	Taxation - Earmarking	H Finance
	H 5833	Taxation - Earmarking	H Finance
	H 5854	Restrictions	H HEW
	H 7017	Resolution	Special Legislation
	H 7031	Sales to Minors	H Judiciary
	H 7149	Smokeless Warning Labels, Minors (Comp. S 2147)	H HEW
	H 7317	Smokeless Warning Labels	H HEW
*	H 7363	Resolution - Restr - House Chamber	H HEW
*	H 7542	Taxation - Sunset	H Finance
*	H 7756	Workplace	H HEW
	S 189	Insurance	S HEW
	S 738	Taxation - Earmarking	S Finance
	S 2147	Smokeless Warning Labels, Minors (Comp. H 7149)	S HEW
*	S 2271	Resolution - Restr - Senate Chamber	ENACTED
VT	H 66	Taxation - Sunset	H Ways & Means
	H 161	Sales Tax Exemption	H Ways & Means
	H 286	Restrictions - Workplace	H Health & Welfare
	H 287	Sales Tax Exemption	H Ways & Means
	H 519	Health Insurance	H Commerce
	* H 582	Smokeless Warning Labels	H Health & Welfare
	S 127	Restrictions	S Institutions
	S 244	Restrictions - Workplace	S Health & Welfare
	S 264	Smokeless Warning Labels	H Health & Welfare

MAJOR STATUS CHANGES OF INTRODUCED LEGISLATION

ME	L.D. 1690	Restaurant Policy Notice J Human Services (Approved) --> House Floor (Approved) --> Senate Floor (Rejected)
NH	H 35	Restrictions - Grocery Stores H Health & Human Services (Approved) --> House Floor (Approved) --> S Public Institutions/Health Care (Pending)
	H 133	Restrictions - Workplace H Health & Human Services (Approved) --> House Floor (Approved) --> S Public Institutions/Health Care (Pending)
RI	H 7017	Resolution (Dept. Health Bldg. Workplace Policy) Introduced --> J Special Legislation (Pending)
VT	H 286	Restrictions - Workplace H Health & Welfare (Approved) --> House Floor (Re-assigned) --> H General & Military Affairs (Rejected) --> House Floor (Re-assigned) --> H Health & Welfare (Pending)

Total Bills - 85

* = New introduction since last Summary

J = Joint (ie, Joint Taxation Committee)

H = House (ie, House Finance Committee)

S = Senate (ie, Senate Finance Committee)

HEW = Health, Education and Welfare Committee (in RI)

RHODE ISLAND TOPICS

A legislative "study commission" chaired by Rep. Don Ferry (D-Johnston) has recommended an increase in the state cigarette excise tax to fund elementary and junior and senior high school drug, alcohol, and tobacco education programs. The exact rate of the tax has not been set yet. However, two figures--\$.006 and \$.016--have been suggested. These would bring the state's current \$.234 tax to \$.24 or \$.25, respectively. This study commission and its recommended action should not be confused with the activities by Rep. Sherwin Kapstein (D-Providence) on smoking in public places.

No action has been taken to date on any of the cigarette bills being considered this year. Smokeless tobacco legislation has

NATIONAL TOPICS

President Reagan signed S1574, the "Comprehensive Smokeless Tobacco Health Education Act of 1986," into law on 2/27. The bill requires warning labels on all smokeless tobacco product packaging and advertising. The only exemption is for billboard advertising. This action preempts all of the various state warning label measures. Here in New England, only Massachusetts had warning label action in place (on snuff only). That Dept. of Public Health regulation was scheduled to take effect on 4/1. However, warning label bills were pending in Connecticut, Maine, Massachusetts (all smokeless products), Rhode Island, and Vermont.

The "sun is scheduled to set" on the \$.16 federal cigarette excise tax at midnight on 3/14. So far, Congress has made no progress on the Budget Reconciliation Package; but movement is anticipated prior to the 3/14 cigarette tax deadline. Inquiries about this tax matter can be directed to the TI Regional office at (617) 927-3990.

The AFL-CIO Executive Committee has taken a strong stand on legislative restrictions on smoking in the workplace. (See attached for complete text.)

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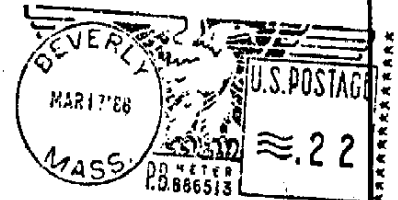
FIRST CLASS MAIL

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been reviewed and held in committee because of the passage of S1574 in Congress. Because of the shortened session, we will see a flurry of activity in late-March and early-April.

VERMONT TOPICS

The members of the General & Military Affairs Committee reviewed H286, the workplace bill, and recommended by a vote of 6-3 that the measure be defeated. However, on the House floor, Health & Welfare Committee Chairman Rep. Toby Young (D-Windham) requested and received permission to further review the bill in her committee. TI and its business allies will attempt to re-open the public hearing process on this bill. This will allow additional testimony on the legislation, especially from those opposed to it.



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