

# GOVERNMENT AFFAIRS WEEKLY REPORT

## March 28, 1997

### FISCAL

**Alabama** - H.263, which increases the cigarette excise tax by \$.18 per pack, has been approved by the House Ways and Means Committee on a voice vote. The additional funds will be used to support a juvenile justice program. The bill will be considered by the House Rules Committee within the next two weeks. Governor Fob James has said publicly that he will veto the tax.

**California** - S.552, which would, on and after 7/1, increase the cigarette tax by \$.32 per pack and impose related floor stock and adjustment taxes, is scheduled for a hearing in the Senate Revenue and Taxation Committee on 4/2.

**Hawaii** - S.927, which would increase the cigarette tax by \$.50 per pack, was approved by the House Health Committee on 3/20. The bill was approved on second reading on the House floor and referred to the House Finance Committee.

**Idaho** - H.346, which places a portion of the tax moneys previously collected under the chapter on cigarettes in the general fund for appropriation to the Juvenile Justice Fund, was signed by the Governor on 3/20.

**Maine** - LD1278, which would amend the tax on pipe tobacco and cigars, was introduced on 2/27 and referred to the Taxation Committee.

LD1615, which would make changes to the cigarette tax laws, create a new licensing provision with increased fees, clarify regulation of imported, unstamped cigarettes by an individual for personal use, provide for seizure and forfeiture of contraband cigarettes and impose specific record keeping requirements on cigarette dealers, was introduced on 3/20 and referred to the Taxation Committee.

LD1627, which would increase the cigarette tax by \$.53 per pack to fund the Youth Smoking Prevention Fund and expand the Medicaid program, was introduced on 3/21 and referred to the Health and Human Services Committee.

LD1677, which would increase the cigarette tax by \$1 per pack to improve children's health, was introduced on 3/26 and referred to the Health and Human Services Committee.

**Maryland** - H.984, to increase the cigarette excise tax by \$.15 and impose an OTP tax of 20% of the wholesale price, passed the House Ways and Means Committee on 3/25, by a vote 12-6.

**Montana** - H.126, a \$.10 per pack tax increase with revenues to provide for Indian health care, was blasted out of committee to the floor on 3/25 by a 57-36 vote. On 3/26, the bill was defeated by a 58-42 vote.

**New Hampshire** - S.204, which would raise the tax on all tobacco products by \$.16 per pack to fund education programs and post-secondary tuition incentives, remains pending before the full Senate.

S.215, which would raise the cigarette tax by \$.18 per pack to fund education programs, was given an "ought not pass" recommendation in the Senate Education Committee on 3/17. The full Senate has yet to act on this recommendation.

2078847292

**New York** - A.5887, which would make various provisions expanding eligibility and benefits under the child health insurance plan, including dental benefits, passed the Health Committee on 3/25 and was referred to the Ways and Means Committee. The bill would fund these benefits through a \$.05 per pack tobacco tax.

**Texas** - H.2844, a bill to raise the cigarette excise tax by \$.25 per pack to fund public elementary and secondary schools, was referred on 3/17 to the House Select Committee on Revenue and Public Education Funding.

**West Virginia** - H.2617, which would impose an excise tax on smokeless tobacco products at a rate of 40% of the wholesale price, has been scheduled for a public hearing by the House Finance Committee on 3/27. The bill does not increase the cigarette tax.

S.426, which would impose an excise tax on smokeless tobacco products at a rate of 40% of the wholesale price, was introduced on 3/24 and referred to the Senate Committee on Finance. This bill does not increase the cigarette tax.

### **SMOKING**

**California** - A.506, which would prohibit prisoners from smoking while incarcerated in the state's prisons, is scheduled for a hearing on 4/1 in the Assembly Public Safety Committee.

**Arcata** -- On 4/2, the city council will vote on a proposed ordinance banning smoking in all public places including bars, outdoor dining areas and within 20 feet of public entrances and exits. The ordinance is modeled after one in the city of Davis.

**Louisiana** - On 3/21, H. 671, a bill to prohibit smoking in state prisons, was prefiled for the regular session of the legislature which convenes on 3/31.

**Nevada** - A.313, which authorizes state agencies and local governments to adopt more stringent restrictions governing tobacco and products made from tobacco than restrictions imposed pursuant to state law, was introduced on 3/26, and referred to the Assembly Judiciary Committee.

**New York** - A.825, which would provide that any rule or regulation of the Commissioner of Education prohibiting smoking on transportation facilities used by pupils shall apply regardless of the presence or absence of pupils on such facility, passed the assembly on 3/24 and was referred to the Senate Education Committee.

S.3476, which was introduced on 3/11, would allow a municipality to include within a local law or ordinance restrictions relating to the prohibition of smoking in any hall or on any premises where a bingo game is held or conducted, was referred to the Rules Committee.

**Rhode Island** - S.9, which would make it unlawful to smoke in a motor vehicle being used for driver training, is scheduled for a hearing in the Senate Health, Education and Welfare Committee on 4/2.

S.40, which would prohibit smoking in public laundries, is scheduled for a hearing in the Senate Health, Education and Welfare Committee on 4/2.

**Jamestown** -- The City Council unanimously passed an ordinance on 3/24, initiated by the substance abuse coalition, to ban the use of tobacco products on the two play areas owned by the town. It was scaled back from an original proposal to include athletic fields and a 10-foot perimeter around the fields.

2078847293

**Texas** - On 3/20, on a non-roll call vote, the Senate approved S.64 to prohibit smoking in state owned buildings.

**Washington** - H.1081, which expands on the law prohibiting the use of tobacco products on school grounds by requiring students and staff to be notified of the prohibition and providing for penalties for violating it, was approved by the Senate Education Committee on 3/20. The bill is now in the Senate Rules Committee.

## **MARKETING**

**California** - Vista -- On 4/1, the Planning Commission will make their recommendations on a proposed ordinance prohibiting the sale of tobacco products in all future stores located within 1,000 feet of schools. The commission is tentatively scheduled to report back to the city council with their recommendations on 5/13.

**Colorado** - H.1088, requiring cigarette vending machines to use tokens or lockout devices, was heard in the Conference Committee 3/20. No action was taken.

**Englewood** -- A proposed ordinance that would require all tobacco retailers and vending machines to obtain a city license, will be heard before City Council on 4/7.

**Connecticut** - RB.284, which seeks to ban tobacco and alcohol advertising on public transportation and billboards within 500 feet of a school, has been reported to the General Law Committee.

**Louisiana** - H.47, a bill to prohibit the sale of tobacco products from vending machines unless the machine is located in places where minors are prohibited from entering by law, commercial or industrial premises where minors are customarily not present or commercial or industrial premises where the vending machine is in immediate control and plain view of an adult employee, has been prefiled for the regular session of the legislature which convenes on 3/31. Penalties for violations include fines, imprisonment and suspension/revocation of tobacco licenses.

On 3/20, S.269, a bill to prohibit the sale of tobacco products from vending machines unless the machine is located in places where minors are prohibited from entering by law, commercial or industrial premises where minors are customarily not present or commercial or industrial premises where the vending machine is in immediate control and plain view of an adult employee, was prefiled for the regular session of the legislature which convenes on 3/31. Penalties for violations include fines, imprisonment and suspension/revocation of tobacco licenses.

**Maine** - LD211, which would repeal a provision of law that prohibits municipalities from enacting ordinances regarding tobacco displays, product placement and time of tobacco product sales and require municipalities to give area retailers 30-days notice of consideration of local tobacco marketing proposals, was passed unanimously by the Senate on 3/25. The Governor is expected to sign the bill within the next 10 days.

**Michigan** - S.339, which would prohibit the sale of individual cigarettes, was introduced on 3/26 and referred to the Senate Health Policy & Senior Citizens Committee.

**Montana** - H.331, restricting vending machines to locations where alcohol is sold and requiring that they be in line of sight of the clerk, passed the Senate on 3/18 by a vote of 42-6. The bill was referred back to the House for final approval and is awaiting floor action.

2078847294

**New York** - A.1830, which would prohibit the erection or maintenance of billboards advertising tobacco products or alcohol beverages within 1,000 feet of schools or playgrounds, passed the Assembly Economic Development Committee on 3/25 and was referred to the Codes Committee.

**New York City** -- Resolution 2236, which was introduced on 3/25, would call on the Federal Trade Commission to investigate the on-line marketing of alcohol and tobacco to children, and request the Food and Drug Administration to monitor on-line tobacco promotional developments and to implement any additional safeguards needed to protect minors, was referred to the Youth Services Committee.

**Oklahoma** - S.619, a bill which would increase fines, suspension of licenses and allow for local licensing and ordinances, was amended in the House Commerce Industry and Labor Committee to eliminate the provision allowing for local licensing and ordinances. The bill was voted do-pass on 3/26 and will be placed on the Senate Calendar.

### TORT

**California** - S.67, a bill to delete references to tobacco from a specified illustrative list of common consumer products, is scheduled for a hearing in the Senate Judiciary Committee on 4/8. The bill provides that liability exemptions provided in the law will not apply to tobacco products.

S.340, which would limit the operation of the provision that a manufacturer or seller is not liable if the product is intended for personal consumption, is inherently unsafe, or is known to be unsafe by the common consumer, is scheduled for hearing in the Senate Judiciary Committee on 4/8.

**Texas** - On 3/24, the House State Affairs Committee held a hearing on H.912, a bill to delete references to tobacco from the inherently unsafe products provision of the 1993 Products Liability Act. The bill would make tobacco companies subject to lawsuits by removing the protections provided under state law for common consumer products intended for personal consumption identified in comment "i" to Section 402A of the Second Restatement of Torts. No action was taken on the bill.

**Washington** - S.6089, which would hold tobacco retailers, wholesalers and distributors liable for harm caused by the usage of cigarettes or tobacco products, was introduced on 3/24.

### OTHER

**Arkansas** - adjourns 4/4.

H.1530, creating a Tobacco Control Board, passed the House on 3/25 by a vote of 83-6. On 3/27, it was voted do-pass by the Senate State Agency Committee with amendments eliminating manufacturing from the bill.

**California** - S.449, which would state the intent of the legislature in regard to provisions of law relating to wrongful death, is scheduled for a hearing on 4/1 in the Senate Judiciary Committee.

S.1101, which would allow the State Board of Equalization to give information to successors, receivers, trustees, executors, administrators, assignees, and guarantors amounts of any unpaid tax or amounts of tax required to be collected on items included in the measure, is scheduled for a hearing on 4/2 in the Senate Taxation Committee.

**Connecticut** - RB.147, which would require the manufacturer of any cigarette, snuff or chewing tobacco sold in the state to provide the Department of Public Health with an annual report listing, by brand, the name of any component other than tobacco, water or reconstituted tobacco sheet,

2078847295

including its weight, measure or numerical count, and nicotine yield ratings, was defeated in the Public Health Committee on 3/20.

**Louisiana** - H. 30, a bill to prohibit the sale of tobacco products to persons under 21 years of age, has been prefiled for the regular session of the legislature which convenes on 3/31.

H.76, a bill to prohibit possession of tobacco products by minors, has been prefiled for the regular session of the legislature which convenes on 3/31.

**Nebraska** - L.470, a privacy bill to prohibit discrimination against use of legal products, was picked as a priority bill on 3/25 after passing the Senate Committee on 3/19.

**Nevada** - S.33, which prohibits minors from purchasing, possessing or using tobacco products, was approved by the Senate Judiciary Committee on 3/20. The bill went to the Senate floor for a vote but was pulled from the calendar by the sponsor. No further action has been taken.

**New Hampshire** - CACR 10, a Constitutional Amendment Concurrent Resolution, to change the state's constitution to strengthen home rule for cities and towns and allow them to adopt ordinances which are more strict than state or federal laws, passed the House by a vote of 317-29.

**New York** - A.5909, which would direct the Commissioner of Health to establish a public education program aimed at reducing smoking among women, has been referred to the Health Committee.

A.5658, which would require manufacturers of cigarettes sold or distributed in the state to disclose a complete list of chemical substances which have been determined to be toxic and would make provision for the commissioner of health to make related information available to the public and for protecting trade secrets, passed the health committee on 3/25 and was referred to the Codes Committee.

A.3492, which would amend the executive law in relation to establishing fire safety standards for cigarettes, will heard in the Government Operations Committee on 4/2.

**Rhode Island** - H.5084, H.5729 and H.6026, bills to allow for statewide initiatives, are scheduled for a hearing in the House Judiciary Committee on 4/2.

**Texas** - H.3444, a bill to prohibit the possession, purchase, receipt or use of cigarettes or other tobacco products by minors, was referred to the House State Affairs Committee on 3/18.

H.3122, a bill prohibiting investments in tobacco stocks and requiring the state to divest of all shares currently owned by 1/1/99, was referred on 3/17 to the House Committee on Pensions and Investments.

H.2814, a bill to prohibit discrimination by insurance companies against persons who use nicotine replacement therapy products, was referred on 3/17 to the House Insurance Committee.

**West Virginia** - H.2676, which would require the county and municipal boards of health to follow certain procedures when promulgating rules restricting or prohibiting the use or possession of tobacco in public places, was introduced on 3/21. The bill was referred to the House Committee on Health & Human Resources and then to the House Committee on Finance.

2078847296

### AAA

**Arizona** - S.1366, a possible striker bill for H.2456, will be heard in House Government Operations Committee on 3/31. It changes sales to minors to a class "b" misdemeanor, requires clerks to verify the age of anyone under 27 years of age, provides drivers license suspension for minors who purchase or attempt to purchase tobacco products, restricts vending machine sales, allows "sting" operations to be conducted under supervision of the Arizona Liquor Department, requires retailers to register with the department and pay an annual fee and provides for statewide uniformity.

**Arkansas** - H.1610, a youth access bill, passed the House Rules Committee on 3/23 by a vote of 54-12 and was referred to the Senate Commerce and Insurance Committee.

**Idaho** - H.185 adds to and repeals existing law to prohibit a minor from using, purchasing, receiving or possessing tobacco products and provides for reporting to the Governor and the Federal Dept. of Health and Human Service by the Executive Agency designated by the Governor to enforce the act. The bill includes vending restrictions and guidelines for unannounced inspections of retailers. The bill was amended to include reverse preemption. On 3/21, the bill was signed by the Governor.

**New Hampshire** - H.599, as amended, would increase the licensing fee for retailers, restrict vending machines, require photo IDs up to 27 years of age, limit sampling, prohibit tobacco use in or on public school grounds, provide for enforcement by the state liquor commission and local law enforcement, revoke retailer licenses on the fourth offense and ban single cigarette sales. The bill, which also includes a reverse preemption provision, passed the House Finance Committee on 3/20 by a unanimous vote. The House will vote on the bill next week.

**Rhode Island** - H.5838, which would provide for penalties to employees of a license holder who sell tobacco products to minors, and to minors who purchase tobacco products, amends the time period for penalties to license holders, clarifies the meaning of suspension for a license holder who has multiple licenses and the meaning of compliance checks, has been scheduled for a hearing on 3/26 in the House Judiciary Committee.

**West Virginia** - H.2677, which among others things, would prohibit the purchase or receipt of tobacco products by persons under the age of eighteen years, provide for random, unannounced inspections of locations where tobacco products are sold or distributed, limit the sales of tobacco products through vending machines, prohibit the sale of cigarettes and smokeless tobacco products other than in unopened packages and require the posting of signs in retail establishments, was introduced on 3/21. The bill was referred to the House Committee on Health and Human Resources and then to the House Committee on Finance.

### MEDICAID LIABILITY

**Arizona** - The Court has scheduled a hearing on the industry's "Motions To Dismiss" for 4/16 at 9:00 a.m.

**Florida** - H.1123, the Third Party Medicaid Liability bill which repeals S.2110 retroactively, will be heard in the House Rules and Regulation Committee on 3/31.

**Hawaii** - SCR51, which would urge the State of Hawaii to join other states suing the tobacco industry for Medicaid costs, is scheduled for a hearing in the Senate Judiciary Committee on 3/27.

2078847297