

Groundwork Laid for Prop. 65 Warnings on Secondhand Smoke

By RICHARD C. PADDOCK, Times Staff Writer

SACRAMENTO—Laying the groundwork for widespread warnings about the danger of secondhand cigarette smoke, the Deukmejian Administration is preparing to extend Proposition 65, the anti-toxics initiative, to tobacco products.

While cigarette packs already contain federal warnings aimed at smokers, Proposition 65 could require tobacco companies, restaurants, bars and other businesses to warn nonsmokers for the first time that tobacco smoke can cause cancer and birth defects.

Gov. George Deukmejian's scientific advisory panel is expected to recommend today that the governor add tobacco smoke to the list of chemicals known to cause cancer and reproductive harm. The panel is also expected to add smokeless tobacco to the state's list of carcinogens. Deukmejian has said he will abide by the recommendations of the panel.

"By listing tobacco smoke, the panel is going to move society one more step in the direction of recognizing that when smokers expose nonsmokers to their smoke, it's a health issue," said Carl Pope, political director of the Sierra Club and a co-author of the initiative.

Clear Warnings

Proposition 65, overwhelmingly approved by the voters in 1986, requires businesses to provide "clear and reasonable" warnings if they expose the public to chemicals that can cause cancer or birth defects. Violators of the law can be fined as much as \$2,500 a day for each illegal exposure.

Warnings for secondhand smoke would not be required until 12 months after the governor formally adds tobacco smoke to

the list. During that time, state officials and businesses would have to resolve the central question of what level of secondhand smoke would trigger health warnings. They would also have to decide what kinds of warnings—such as posters, newspaper ads or warnings on restaurant menus—would meet the requirements of the law.

Placement of tobacco smoke on the list of chemicals covered by Proposition 65 would present a major challenge to the tobacco industry, which has long battled against warning requirements of any kind.

Birth Defects

Conceivably, cigarette manufacturers could be required under the law to warn the public through their advertisements that secondhand smoke can cause cancer or birth defects.

Businesses that sanction smoking on their premises could also be required to post warnings in offices, restaurants or bars where employees and customers are allowed to smoke.

"Tobacco smoke is going to be a bigger problem for business than it is now," said John Jarvis, a spokesman for a business coalition that calls itself the Environmental Working Group.

"Every business is going to have to at least think about its smoking policy," he said.

The proposal to add tobacco smoke to the list is based on mounting scientific evidence about the hazards of secondhand smoke.

In 1986, Surgeon General C. Everett Koop issued a landmark report concluding that "involuntary smoking" can cause lung

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cancer in nonsmokers. Koop said 11 studies conducted in the previous five years had demonstrated a link between environmental smoke and lung cancer in people who did not smoke.

The surgeon general also estimated that exposure to tobacco smoke could cause between several hundred and several thousand lung cancer deaths a year among nonsmokers. Among smokers, tobacco is responsible for more than 300,000 deaths a year in the United States—15% of all deaths, Koop said.

"From talking to the panel members, I have found no one who disagrees that tobacco smoke is a carcinogen," said Health and Wel-

fare Undersecretary Thomas E. Warner, the Deukmejian Administration official heading the implementation of Proposition 65. "Its connection to cancer seems pretty well established."

Although tobacco smoke would be just one of more than 200 substances on the Proposition 65 list, it would clearly be the most significant, because more cases of cancer are attributed to tobacco than any other substance identified to date.

In fact, spokesman for other industries seeking to keep their chemicals off the list have frequently pointed to tobacco smoke as a far more serious health threat than their own products.

Consumer advocates note that

the federally required warning for smokers carried on cigarette packs is the prototype for the kinds of warnings that would be required under Proposition 65 for a variety of hazardous chemicals.

Tobacco smoke would join alcoholic beverages on the list of chemicals known to cause birth defects. Neither was specifically identified in the initiative as a candidate for the list, but the Deukmejian Administration has moved to list both chemicals because of their widespread danger, state officials said.

Brennan Moran, a spokeswoman for the Tobacco Institute said she was uncertain how the industry would respond to Proposition 65 and had no comment on the pro-

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posal to list tobacco

If, as expected, tobacco smoke is added to the state's list of substances that can cause cancer or birth defects, the only question left will be the level of exposure at which warnings would be required.

For carcinogens, Proposition 65 requires that the warnings be posted if the substance poses a "significant risk" to the public. The state will spell out what that means.

In the case of chemicals known to cause birth defects, the law is more stringent: The public can be exposed to no more than 1/1,000th of the level at which scientific studies have shown there is "no observable effect" on human reproduction.

Thus, by either standard, warning requirements for secondhand smoke are likely to be required in a wide variety of circumstances.

Businesses could avoid the warning requirement by banning smoking. Or, they could find themselves having to test the air quality in their establishments in order to determine what level of risk their employees and customers face.

The panel's action would also raise the question of who has responsibility for tobacco smoke—individuals who smoke or businesses that allow smoking to take place.

Proposition 65 applies only to businesses that have 10 or more employees and does not place any requirements on individuals. Government agencies are also exempted, although a bill is pending in the Legislature that would make public agencies subject to the warning requirements. In addition, the initiative covers only exposures that occur "in the course of doing

business."

However, an attorney for the California Restaurant Assn. questioned whether the law would cover businesses that do not sell cigarettes and simply allow their patrons to smoke.

"Do we take the responsibility for the legal acts of our customers on the premises?" asked Jo Linda Thompson. "I don't think restaurants are the cause of secondhand smoke. I don't think they are responsible for secondhand smoke."

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