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MASSACHUSETTS

A STATE ANALYSIS

A. PREFACE

There are 6 million in the state of Massachusetts. It has a 2.4 percent market share and a 26-cent per pack excise tax on cigarettes. Those taxes are collected on 668.7 million packs of cigarettes, producing state revenues of approximately \$173 million in fiscal year 1984.

From a tobacco industry standpoint, the Commonwealth of Massachusetts may defy description. But then there are those who suggest that from any viewpoint, Massachusetts defies description. During the late sixties, some conservative Congressional leaders suggested that the entire New England region, but especially Massachusetts, be physically separated from the rest of the United States and floated out to sea. Since that time, the philosophical distance between Massachusetts and mainstream America has not shortened. In fact, it's probably true to state that Massachusetts has more in common with its West Coast counterpart, California, than with the vast majority of other states.

Certain state inconsistencies, however, have allowed us to survive. On the one hand, the state is known for its high level of taxation and its lenient welfare, workers compensation, and unemployment laws. It is one of only two states in the country to regulate automobile insurance. Republicans are rare at the state and local levels. But, in recent years, Massachusetts Democrats have voted overwhelmingly for Republican candidates for president.

An initiative petition drive recently gave voters an opportunity to vote in support of a cap on municipal local property taxes. Another recent initiative, to repeal state legislative pay raises, passed. Moreover, in 1986, the voters are likely to be given an opportunity to vote to repeal the "Dukakis 7 1/2 percent income tax surtax" and the mandatory seat belt law. It appears right now that both initiatives are likely to be successful. In the midst of all of this chaos, no anti-tobacco legislation passed to date.

B. STATE OVERVIEW

1. Economic Condition

If Connecticut is awash in cash, the Massachusetts ship of state has clearly sunk in a sea of money. Depending on whose accounting methods you use, the state has a surplus between \$500 million and \$1 billion. Every elected official or appointed bureaucrat wants to spend it, hide it, or give it back to the voters during the 1986 election year. The state is likely to return some of this to the people, either in the form of a rebate or a repeal of the surtax.

Despite recent setbacks for some high-tech companies like Wang and Digital Equipment Corporation, the Commonwealth is virtually at full employment. Recent reports indicate that there are not enough workers to fill the seasonal jobs made available by the Christmas holidays. Employers are resorting to paying as much as \$250.00 bounties to current employees who bring new employees into the company. A number of business in the western Massachusetts suburb of Framingham have initiated a daily private shuttle bus service to some of the central Massachusetts industrial communities to bring unskilled and low-skilled workers in for full-time jobs. The cost of the transportation is paid for by the employers.

The prosperity that is part of the Reagan and high-tech booms is likely to continue for some time. Recent legislative actions, like the passage of a modified unitary tax by the Massachusetts Senate, may result in a number of companies giving some additional thought to the opening of new facilities in the Commonwealth.

2. Political Situation

At present, the only interesting race seems to be for the Eighth Congressional District. That seat is currently held by the Speaker of the House "Tip" O'Neill, who succeeded Jack Kennedy. Joe Fitzgerald Kennedy, son of late Senator Robert Kennedy, has announced his candidacy for the position. Some candidates dropped out; some welcomed Kennedy's spirited opposition; and others railed against the political neophyte with a big name who is destroying the hopes of local politicians who have paid their dues.

The second most interesting fight may be the initiative questions which will appear on the ballot in November. Present information indicates that both the surtax repeal and the mandatory seat belt law repeal will make it onto the November ballot. Each of these original laws is strongly associated with the current Governor.

The public and media attitude toward these two initiatives makes the Governor's race an interesting one. However, Governor Michael Dukakis has raised more money than any gubernatorial candidate in the history of the Commonwealth for his 1986 campaign, and the Republicans appear to be positioning former-Governor Edward King for a repeat of the 1982 and 1978 elections. No other credible Republican candidates have stepped forward.

In the State House, we are likely to see a quieter year. The fragile coalition that elected current House Speaker George Keverian is likely to survive the brief winter recess and the elections squabbles of 1986. If the coalition survives, Speaker Keverian will begin to consolidate his power and use it to circumvent some of the "rules reforms" forced upon him during his first session as Speaker. On the Senate side, we will probably see the final election campaign of Senate President William Bulger. It is likely that he will not seek re-election in 1988.

This suggests a year that appears very active on the surface and in the media, but is actually quiet.

3. Significant State Problems

Massachusetts has a number of problems that it shares with other New England states. Some of these are environmental and include the clean-up of Boston Harbor, solid waste management, destruction of the region's groundwater supplies, and hazardous waste dumps. In January 1984, Governor Dukakis declared educational reform as the state's highest priority. To date, there has been a great deal of breast-beating about educational reform, but no substantive action. It is an area of concern and one which may be addressed during the upcoming election year. There are also a number of "human" issues which have preoccupied the media and a number of political figures. These include the problem of the homeless and drunk driving.

While there are a great many volatile issues facing the people and the politicians of the Commonwealth, they may be overshadowed by the overwhelming desire of those in power to bypass the tough issues during an election year.

C. RESOURCES

1. Tobacco Segments

The tobacco industry in Massachusetts is not unlike the tobacco industry in the other five New England states. It is disjointed. Each segment tends to go its own way. Within the wholesaling community, individuals have a tendency to act independently of other individuals within that segment.

The active players include: Massachusetts Food Association, New England Wholesale Food Distributors Association, Massachusetts Automatic Merchandising Council, and the newly-formed New England Wholesale Tobacco & Candy Association. While this organization seeks to develop and operate a wholesalers' association spanning the six New England states, a majority of the potential members are from Massachusetts. Also working with us on our federal, state, and local legislative activities is the New England Convenience Store Association. While we are capable of organizing and coordinating the activities of all the various segments of the industry, that coordination and cooperation would be much more valuable if the individual members of the wholesale trade could get along.

2. Business

The business community in the Commonwealth is essentially a community in fear of its life. It recognizes the extreme liberal tendencies of the legislature and the various local boards with

whom its members must deal. The various associations and individual businesses that make up this community are extremely selective in picking their battles and the extent to which they will go to war. In light of the other issues affecting business which are before the Massachusetts legislature, the tobacco issue has yet to become a top priority.

3. Labor

The labor community in Massachusetts, like many of the other large industrial states of the north, is suffering from declining blue-collar employment, lack of understanding of the history of unionism, and a shift of perceived goals in Massachusetts. After many years of looking with some disdain on some of the service-type workers' organizations, the state AFL-CIO has begun to act on their behalf. If they are successful, there is potential for the members of organized labor to have considerable impact on our behalf.

However, like business, labor representatives in the Commonwealth are at best reluctant allies of this industry at the legislative level.

4. Fire Groups

As a result of our activities surrounding "self-extinguishing" cigarettes, we have developed a close working relationship with the Fire Marshal's office in Boston. It is unlikely that this group would be helpful on any issue other than "self-extinguishing" cigarettes.

5. TI Resources

Our greatest resource is our affiliation with Attorney William F. Coyne. Coyne's ability to move about in a variety of legislative circles and represent the industry is unquestionably the single largest reason for our success to date. Added to those considerable talents, we have available the activities of our allies, who have consistently offered us direct lobbying support and access to their members. The TI office is located in Massachusetts, providing us with much easier legislative access in Massachusetts than any of the other New England states.

D. ANTI-TOBACCO FORCES

A complete description of anti-tobacco advocates in Massachusetts would make a very long book. In brief, Massachusetts is one of the founding locations of GASP. Some of the current leaders of GASP have developed the Tobacco Product Liability Project to act as a clearing-house for legal information related to product liability suits against manufacturers.

In addition, the Massachusetts Heart, Cancer, and Lung Associations are constantly involved in the anti-tobacco movement at both the state and local levels. Of considerable concern to the industry are the various local chapters of the League of Women Voters. Not content to be involved with issues of voting rights, the League has decided to involve itself in such social issues as smoking in the workplace. In fact, at the local level the League has been the initial sponsor of more pieces of anti-tobacco legislation than any other single organization in the state.

Supporting these groups are the Governor and his Public Health Commissioner, Bailus Walker, Jr. In 1983 Walker proposed to prohibit cigarette sales in the Commonwealth. His suggestion was attacked by the head of the Department of Revenue and was consequently withdrawn. Since that time the Commissioner has been actively involved at both the state and local levels. During 1984 and early 1985, he requested that the 351 local boards of health take action on sampling, smoking in restaurants, and smoking in the workplace. However, during most of 1985, the Commissioner has focused the attention of his department and the state's Public Health Council on various smokeless tobacco issues, including labeling, sampling, and taxation.

The anti-tobacco community in the Commonwealth is extremely well organized, well financed, and finely tuned. They have moved from the state level to the local level, attacking us on the issues of sampling and restaurant restrictions. They have learned to target their attacks and have retained full-time counsel.

E. TOBACCO INDUSTRY

1. Brief History

Since 1977, the only piece of anti-tobacco legislation to clear the Massachusetts House and Senate was a tobacco tax in 1983. Against all odds, we continue to win against legislative introductions that number up to 50 in some years. The simple truth in Massachusetts is that we have never won a floor vote and are unlikely to be able to win one in the near future. The key to our success, therefore, has been our ability to keep bills bottled in committee. The response to that may be to develop massive grassroots action in the Commonwealth during the next few years.

At the local level, we have sustained a certain number of losses, but our record has been and remains consistently good. In most cases, our strategy is to work through surrogates at the local level, either in the restaurant or business communities or friendly members of the particular board or council.

2. Major Issues--State and Local

Depending on the outcome of the 1985 session, which will not close until year-end, it is likely that the anti-tobacco activists will come back at the state level with another "Clean Indoor Air" bill. In 1986, however, it is likely that that legislation will also cover the workplace. As in Maine, it is likely that the legislature will focus on issues relating to the smokeless tobacco industry and questions of sampling and advertising.

It is likely that the numbers of local legislative problems will increase in 1986 and succeeding years.

3. Outlook

The outlook for Massachusetts is essentially for more of the same: more pieces of legislation, more activity on each piece of legislation, more grassroots activity, more direct lobbying, more of everything.

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