

PRO-ACTIVE PROPOSAL

**VERMONT
HIRING DISCRIMINATION**

LEGISLATIVE ACTION

September 26, 1989

STATE/LOCALITY:

Vermont

ISSUE:

Hiring discrimination against smokers in private workplaces.

SUMMARY:

Prohibits private employers from using off-the-job personal activities as considerations for hiring, firing, or promotion decisions.

SPONSOR:

Vermont State AFL-CIO; legislative sponsor to be selected.

INTRO DATE:

Prefile

COMMITTEE:

General and Military Affairs Committee

INDUSTRY ACTION

September 26, 1989

As adjunct to labor resolutions recommending legislation, this effort will attempt to enact civil rights legislation to protect workers from discrimination on the basis of off-the-job personal practices. Postured as a labor and not a tobacco issue, this pro-active effort will be attached to workplace legislation.

RESOURCES NEEDED

YES/NO

DATE NEEDED

ECONOMIC ANALYSIS/FACTSHEET?

YES

12/31/89

While it may be difficult to develop, it would be helpful to have an economic analysis of the impact of limiting job access in a tight job market. If an entire class of employee is eliminated by a business, what is the impact on the employers' ability to fill openings. There, also, is a need to develop responses to the argument that smokers cost employers money. Finally, assess the economic impact of decreased employee morale as a result of employer intrusiveness into their private lives.

LEGAL MEMORANDUM?

YES

12/31/89

Legal memoranda supporting broad anti-discrimination statute to specifically include smokers. These should be developed from a labor perspective, and also be sensitive to the interests of the ACLU and minority interests. These will be used to help develop support among these groups in this effort.

EXPERT WITNESSES?

YES

1st & 2nd Qtrs 1990

The development of either local or nationally recognized experts in the area of civil liberties to support the labor effort or assist in the development of the local ACLU as an ally in this effort. This individual could be called upon to meet with unions, the ACLU, minority groups or members of the legislature. In addition, one or two "Op-ed" articles may

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be required. If there is a plausible economic argument to be made, then a local "liberal" economist for presentations to allied groups and members of the legislature would be helpful. Utilize John Fox, Esq. to discuss the personnel impact of such activities either by private or public employers.

COALITION ALLIES? YES 1st & 2nd Qtrs 1990

The development of the State Federation AFL-CIO and other labor allies. With the help of contacts at Covington & Burling develop the support of the ACLU and their activists. Business support may be possible, but will not be counted on for the purpose of this plan.

TI GRASSROOTS MOBILIZATION? YES 1st & 2nd Qtrs 1990

Smokers will be mobilized through the computer-based program of the cigarette manufacturers. Additional grassroots activities will be developed through our identified allies. These groups will be responsible for motivating their members in a timely fashion.

COMPANY RESOURCES? YES 1st & 2nd Qtrs 1990

Access to company legislative counsel for periodic meetings with TI counsel to coordinate the industry's support for the efforts of organized labor and other groups. This lobbying support will be developed in a way that does not identify the industry as the primary sponsor of this legislation.

PUBLIC AFFAIRS/MEDIA RESOURCES? YES 1st & 2nd Qtrs 1990

It may be necessary to provide local labor leaders with an opportunity to consult with either local public/media relations counsel or TI's "in-house" experts regarding the need and substance for a local print, radio or TV campaign. If this legislation develops to the point where industry involvement would appear natural, and our absence suspicious, then it may be reasonable to utilize the talents of our spokespersons in the state on this issue.

ADDITIONAL NEEDS? To Be Determined

PRO-ACTIVE PROPOSALS

**VERMONT
INDOOR AIR QUALITY**

LEGISLATIVE ACTION September 26, 1989

STATE/LOCALITY: Vermont

ISSUE: IAQ (Workplace - ASHRAE Standards)

SUMMARY: Establish state-wide IAQ standards for workplaces. Potential for mitigating effects of existing smoking restriction law, and preempting anticipated local action on this issue.

SPONSOR: Vermont State Federation AFL-CIO, supported directly by the SEIU (potential sponsors include Rep. Ted Lindgren)

INTRO DATE: Prefile

COMMITTEE: House General and Military Affairs Committee

INDUSTRY ACTION September 26, 1989

The purpose of the legislation is to reduce or eliminate the effects of the existing state-wide workplace smoking restriction law. Other potential benefits might include the preempting of localities from enacting more restrictive ordinances in the future. As with most types of potentially positive legislation introduced here in the Northeast, identification of the tobacco industry as the primary sponsor would be of no value to the potential success of the legislation. The intention of the plan is to develop the legislation as a result of an AFL-CIO resolution. As in previous IAQ legislative activities our role would be supportive, but not overt. The preliminary requirement of the effort is the adoption of appropriate resolutions by the AFL-CIO during the up-coming legislative convention. This is being prepared through the offices of local labor counsel.

This legislation may be tied into legislation amending the current workplace smoking law. See Action-Tracs on Hiring Discrimination and Smokers' Rights.

| RESOURCES NEEDED | YES/NO | DATE NEEDED |
|-------------------------------------|---------------|--------------------|
| ECONOMIC ANALYSIS/FACTSHEET? | YES | 12/1/89 |

The industry and its allies need to be able to respond to the various cost related opposition arguments. To do this a comprehensive analysis of the economic impact of the effects of the proper maintenance of indoor air quality standards needs to be developed. This analysis should take into account the cost of proper maintenance and the effects on both worker productivity and health care costs. To provide for maximum opportunity for utilization of this analysis, it should be developed in two forms -- one for presentation by labor interests and one for presentation to business interests by the industry and then for presentation by those identified business interests to the members of the Legislature.

LEGAL MEMORANDUM?

YES

12/1/89

Two separate legal analyses are needed to address the different concerns of business and labor. To mitigate anticipated business sector opposition to the proposal, the business memorandum should address (and allay) the potential fear that any positive action taken by business is a suggestion of past errors, thus exposing them to possible employee legal action. The labor memorandum should provide a clear legal analysis of the impact of the proposal on the employee/employer relationship. These analyses should be prepared for ultimate use by business and labor and not by the industry.

EXPERT WITNESSES?

YES

1st Qtr 1990

NEMI, ACVA, and other scientific witnesses for individual and committee presentations. Ideally, these witnesses will be sponsored by other organizations when they make their presentations. NEMI will present the labor perspective. Other witnesses could be brought in by business interests, including local chambers of commerce. However, if necessary, these other witnesses could be sponsored by the industry and conduct "background briefings" with friendly or moderate legislators.

COALITION ALLIES?

YES

**4th Qtr 1989,
1st & 2nd Qtrs 1990**

If successfully developed, the entire effort will be sponsored by the AFL-CIO. The support of other unions including the SEIU, Sheetmetal Workers and BC&T will be developed. The support of the business community would be ideal, but difficult to develop. At the very least, there is a need to neutralize the largest organizations representing the business community. Help from the resident tobacco industry could be helpful but of limited impact because of its size and political experience.

TI GRASSROOTS MOBILIZATION?

YES

1st & 2nd Qtrs 1990

It is likely that we will use our resources to mobilize the members of other organizations, including union members and individual local chambers of commerce. Support from the member companies' computer-based grassroots program may be of help, but only if the requests for support come from non-tobacco sources. Overt tobacco contact with this legislation may not be supportive of the ultimate goal.

COMPANY RESOURCES?

YES

1st & 2nd Qtrs 1990

Access to their legislative counsels to meet periodically with TI counsel to coordinate the industry's support for the efforts of labor and other allied groups. This industry lobbying support will be conducted in a very targeted format that reduces the potential for industry exposure on this issue.

PUBLIC AFFAIRS/MEDIA RESOURCES?

YES

1st & 2nd Qtrs 1990

It may be necessary to provide local union officials with local public relations and media relations in order to encourage their development of a plan regarding media support for their legislative effort. This may include the retention of local public relations counsel, but will initially be limited to the expertise of "in-house" resources.

ADDITIONAL NEEDS?

YES

**4th Qtr 1989,
1st & 2nd Qtrs 1990**

Labor/management committee presentations on IAQ to selected unions, legislators and media representatives.

PRO-ACTIVE PROPOSAL

**VERMONT
SMOKERS' RIGHTS**

LEGISLATIVE ACTION September 26, 1989

STATE/LOCALITY: Vermont

BILL NUMBER: H 177 (1989) carries over

ISSUE: Smoking in the workplace: Equality of Treatment

SUMMARY: Amends 18 V.S.A., Section 1423(a) to require simple majority vote to establish smoking areas in unenclosed workplace areas

SPONSOR: Rep. Joe Murphy et al.

INTRO DATE: Carryover

COMMITTEE: House Health & Welfare --> House General Committee

HEARING DATE: To be announced

LEGISLATIVE STATUS: Held in House Health & Welfare

INDUSTRY ACTION September 26, 1989

The purpose of this legislation is to reduce the voting percentage required to permit smoking in unenclosed work areas. The current law requires a 75% majority acceptance to permit smoking in unenclosed areas. This legislation may be tied into legislation drafted to impact hiring discrimination and IAQ. See Action-tracs regarding those issues.

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| RESOURCES NEEDED | YES/NO | DATE NEEDED |
|-------------------------|---------------|--------------------|

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| ECONOMIC ANALYSIS/FACTSHEET? | YES | 1st Qtr 1990 |
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Working with local members of the state's chamber of commerce, it would be helpful to develop one page "fact sheets" of actual case studies to demonstrate inequity and difficulty of the present law.

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| LEGAL MEMORANDUM? | YES | December 10 |
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A discussion of employment and personnel law on the specific issue would be useful. Included in this memorandum should be a discussion of the potential for union disputes if non-union employees were to abrogate a collectively bargained smoking policy. In addition, there should be a carefully crafted discussion of the efficacy of a policy that relies on a simple majority to make these types of choices. Finally, the memorandum should discuss the legal problems inherent in these types of workplace smoking restrictions and suggest that there is no need for any government controls on these issues. They are better left to the employer in discussions with the employees.

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EXPERT WITNESSES?

YES

1st Qtr 1990

NEMI, ACVA, and other scientific witnesses for individual and committee presentations. Ideally, these witnesses will be sponsored by other organizations when they make their presentations. NEMI will present the labor perspective. Other witnesses could be brought in by business interests, including local chambers of commerce. However, if necessary, these other witnesses could be sponsored by the industry and conduct "background briefings" with friendly or moderate legislators.

COALITION ALLIES?

YES

1st Qtr 1990

It reasonable to assume that organized labor, the Vermont State Chamber, Associated Industries of Vermont and selected local chambers of commerce will take an active interest in this attempt to "roll back" a particularly difficult piece of anti-tobacco legislation. However, it is likely that these groups will look to TI and its tobacco allies -- wholesalers and retailers -- to "carry the ball" on this particular piece. The support of non-tobacco allies is likely to be confined to direct lobbying and occasional information to their members.

TI GRASSROOTS MOBILIZATION?

YES

2nd Qtr 1990

The grassroots effort surrounding this bill will have two separate components. The first will direct letters at employers from smoker employees calling on them to change the state law. The second component will be directed at legislators, supporting the proposed change in the law. These efforts will be supported by the member companies' computer-based grassroots programs.

COMPANY RESOURCES?

YES

1st Qtr 1990

Access to their legislative counsels to meet periodically with TI counsel to coordinate the industry's support for the efforts of labor and other allied groups. This industry lobbying support will be conducted in a very targeted format that reduces the potential for excessive industry exposure on this issue.

PUBLIC AFFAIRS/MEDIA RESOURCES?

YES

Undetermined

Depending on the development of the grassroots program, it maybe possible to develop "Op-ed" articles for coalition allies or individual workers on local impact of the existing law. It is reasonable to assume that we will have to write these articles.

ADDITIONAL NEEDS?

NO

PRO-ACTIVE PROPOSAL

**VERMONT
SAMPLING PREEMPTION**

LEGISLATIVE ACTION

September 26, 1989

STATE/LOCALITY:

Vermont

ISSUE:

Tobacco sampling restrictions

SUMMARY:

Uniform sampling code including preemption of local bans

SPONSOR:

To be identified

INTRO DATE:

Prefile

COMMITTEE:

To Be Assigned

INDUSTRY ACTION

September 26, 1989

The primary purpose of the bill is to kill any possibility of legislating a total ban on sampling, either locally or at the state level. The bill codifies current cigarette industry sampling practices, and prohibits local municipal bans; it includes language to preempt any enacted local bans (none currently).

This legislation is defensive in nature. The chances of enactment are slim. But, the effect of putting anti-tobacco forces into an unaccustomed defensive posture dissipates their capacity to attack us.

RESOURCES NEEDED

YES/NO

DATE NEEDED

ECONOMIC ANALYSIS/FACTSHEET?

YES

12/1/89

Factsheet regarding present sampling practices of TI member companies and Smokeless Tobacco Council members for circulation among legislators. This request is actually for two separate documents -- The first document to illustrate the impact (or non-impact) of sampling activities on the state; the second to describe the methods used by the companies in conducting sampling activities. The second document should include a copy of a sample contract between the manufacturer and the sampling company and a discussion of its important sections.

LEGAL MEMORANDUM?

YES

12/31/89

In the past, we have developed legal memoranda for Massachusetts. This concept needs to be expanded for Vermont. Included in this memorandum should be a discussion of the preemption issue and a positive review of the proposed legislation, including its compliance with the preemption requirements of the federal law.

EXPERT WITNESSES?

YES

1st Qtr 1990

When a committee hearing is scheduled, we will need sampling company representatives to appear as witnesses. Some of these individuals (Steve Bellissimo, Phoenix Marketing) have been very effective in the past. We must be sure we understand the sampling methods used by the smokeless tobacco companies since their methods are different from those of cigarette manufacturers.

COALITION ALLIES?

YES

1st Qtr 1990

It is likely that there are few, if any, allies available on this issue. However, it may be possible to solicit the help of the state's wholesalers, retailers and local chambers of commerce. It is likely that the support will come in the form of direct lobbying action and not grassroots activities by their members.

TI GRASSROOTS MOBILIZATION?

YES

1st & 2nd Qtrs 1990

It may be helpful to develop some positive contacts by employees of the manufacturers emphasizing industry's responsibility. However, the success of this effort will depend almost entirely on the direct lobbying activities of the industry and its selected allies.

COMPANY RESOURCES?

YES

1st & 2nd Qtrs 1990

Access to TI member company and wholesaler legislative counsel for periodic meetings to coordinate State House activities is critical.

PUBLIC AFFAIRS/MEDIA RESOURCES?

YES

2nd Qtr 1990

It is possible that some members of the legislature and the Department of Public Health might be interested in the "Helping Youth Decide" Program. This may present an opportunity to develop their support for the sampling legislation. This effort may include providing consultation for local print media campaigns to support this program.

ADDITIONAL NEEDS?

To Be Determined

PRO-ACTIVE PROPOSAL

**VERMONT
LOCAL TAX PREEMPTION**

LEGISLATIVE ACTION September 26, 1989
STATE/LOCALITY: Vermont
BILL NUMBER: Unassigned, drafted as Option A and Option B in 1989
ISSUE: Local taxing power
SUMMARY: Eliminate potential for local taxes by clarifying power of taxation
SPONSOR: Not yet identified; perhaps Rep. Valsangiacomo
INTRO DATE: Prefile
COMMITTEE: Committee on Municipal Corporations & Elections; Ways & Means

INDUSTRY ACTION September 26, 1989

This bill will prevent individual cities and towns from enacting local excise taxes on cigarettes. It is filed in response to last year's Burlington initiative (defeated).

RESOURCES NEEDED YES/NO DATE NEEDED

ECONOMIC ANALYSIS/FACTSHEET? YES 4th Qtr 1989

Develop an analysis of the impact of local taxing authority in other states on state government's ability to raise revenues. Relate that concrete experience in other states to an impact in Vermont.

LEGAL MEMORANDUM? YES 1st Qtr 1990

Develop both an executive summary form and a complete analysis of the Vermont constitution and legislation to determine the basis for local taxing authority. Memo should support limiting authority of localities and describe the most effective method for implementing that restriction.

EXPERT WITNESSES? YES 1st Qtr 1990

It may be possible to utilize TI economic witnesses to support retail allies. However, it would not be beneficial for the tobacco industry to be perceived as the instigator of this legislation. It could have a negative impact on other tobacco-related legislation.

COALITION ALLIES?

YES

4th Qtr 1989
1st & 2nd Qtrs 1990

Vermont Retail Grocers Association, Coalition of Burlington Retail Grocers, Vermont Chamber of Commerce, Associated Industries of Vermont, Vermont Lodging and Restaurant Association. These are the groups that became involved in the effort to defeat the Burlington city tax during 1989. Their efforts during that ballot question battle convinced them that there was a need to restrict the communities' power to tax.

TI GRASSROOTS MOBILIZATION?

NO

This is not a tobacco issue and identification as such will harm us in some of our other legislative dealings.

COMPANY RESOURCES?

YES

4th Qtr 1989
1st & 2nd Qtrs 1990

Access to member company legislative counsel to participate in periodic meetings to determine the best way for the industry to be supportive of the efforts of the proponents of the legislation.

PUBLIC AFFAIRS/MEDIA RESOURCES?

YES

On-Going

It may become necessary to provide assistance to the members of the coalition for a media campaign connected to the effort. It is likely that TI's "in-house" resources will be capable of providing the necessary information.

ADDITIONAL NEEDS?

To Be Determined