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Assembly California Legislature

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FACT SHEET ON AB 13 (T. FRIEDMAN): WORKPLACE SMOKING BAN

WHAT AB 13 DOES

- * Prohibits smoking in all enclosed workplaces. The prohibition does not apply to private homes or private hotel or motel rooms.
- * A workplace smoking ban will protect the health of employees.
- * A workplace smoking ban also will protect the health of California businesses by immunizing them from claims based on exposure to secondhand smoke.
- * AB 13 is the only tobacco bill supported by business, labor, health and local government groups.

HEALTH RISK TO NONSMOKERS

For decades we have known that smoking kills smokers. Now we have clear, indisputable, scientific evidence of the health risks of environmental tobacco smoke (ETS) on nonsmokers. In fact, ETS is the third leading preventable cause of death in the United States, after mainstream smoking and alcohol.

SECONDHAND SMOKE IS AS DANGEROUS AS ASBESTOS

The U.S. Environmental Protection Agency (EPA) released a report in December 1992 which places ETS in the category of known human carcinogens (Group A), the same category as asbestos and benzene. The agency attributes to ETS exposure 3,000 lung cancer deaths per year among nonsmokers.

INCONTROVERTIBLE EVIDENCE OF HEALTH RISK

In a landmark 1986 report, U.S. Surgeon General C. Everett Koop stated, "It is rare to have such an abundance of evidence on which to make a judgment, and given this abundance of evidence, a clear judgment can now be made: exposure to environmental tobacco smoke is a cause of lung cancer."

Several recent academic studies have concluded that over 50,000 heart disease and cancer deaths annually among nonsmokers are caused by ETS. And the National Institute for Occupational Safety and Health (NIOSH) issued a report in June 1991 which concluded that "Workers should not be involuntarily exposed to tobacco smoke...Worker exposure to ETS is most efficiently and completely controlled by simply eliminating tobacco use from the workplace."

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AB 13 WILL PREVENT A WORKERS' COMPENSATION EXPLOSION

By eliminating secondhand smoke from the workplace, AB 13 protects employers from increased workers' compensation and disability claims. Recently, a waiter in Marin County received over \$80,000 in workers' compensation benefits for a heart attack which he claimed was caused by ETS. Evidence in the EPA report undoubtedly will be the basis for a massive increase in workers' compensation claims by non-smokers who have been affected by ETS in the workplace.

ADVANTAGES OF WORKPLACE BAN

By prohibiting smoking in enclosed workplaces, AB 13:

- relieves employers from any requirement to provide separate, expensive ventilation systems for smokers and nonsmokers.
- provides a uniform, statewide law and preempts the patchwork of local ordinances around the state with which businesses currently must comply.

AB 13 IS GOOD FOR BUSINESS

In addition to preventing workers' compensation claims and providing a "level playing field" for employers, prohibiting smoking in enclosed workplaces will:

- increase employee productivity and morale
- decrease absenteeism
- lower insurance and health care costs
- reduce cleaning and maintenance costs.

TOBACCO INDUSTRY CAMPAIGN OF DECEIT

In February, 1993 the Wall Street Journal exposed the industry's multi-million dollar, four-decade campaign to create doubt about the health risks of smoking to the smoker. Now the industry has embarked on a similar campaign to create doubt about the health risks of ETS to nonsmokers by arguing that there is no proven health hazard from ETS.

AB 13 PROTECTS WORKERS AND BUSINESSES; AB 996 HARMS THEM

AB 13 creates one uniform, protective law. It protects all workers from ETS exposure and protects all employers from claims related to ETS. AB 996 establishes unequal protection with its many loopholes and exemptions. Additionally, AB 996 allows some local ordinances to remain in effect while rendering others null and void. How can businesses cope with different laws in different jurisdictions?

WE SUPPORT AB 13

AB 13 passed the State Assembly on June 7, 1993 by a 47-25 vote.
AB 13 is SPONSORED by an unprecedented coalition:

- The California Restaurant Association
- The California Medical Association
- The California Labor Federation, AFL-CIO
- The American Lung Association of California
- The American Heart Association-California and Greater Los Angeles Affiliate.

Additional supporters include:

BUSINESS

Building Owners and Managers Association of California (BOMA)
Los Angeles Area Chamber of Commerce
Greater Redding Chamber of Commerce
Mervyn's
Southern California Gas Company
California Service Station and Automotive Repair Association
Sorensen's Resort
San Marcos Bowl
Marriott Hotel, San Diego
Lyon's Restaurants
Fior D'Italia
Carrows
Coco's
Reuben's
Charley Brown's
El Torito
Que Pasa
Las Brisas
Casa Maria
Independent/Owner-Operators Trucking Services
Pleasanton Hotel
The Daily Grill Restaurants
Cafe Capitola
Shadowbrook Restaurant
Lawry's Restaurant Inc.
The Ruby Restaurant Group
The Restaurant Enterprise Group, Inc.
The Restaurant Business, Inc.
Junior's
Sizzlers Restaurants of Sonoma County
The Firehouse Restaurant
Bakers Square Restaurants
Hamburger Henry's
Zephyr Urban Management
Club Almaden
Ochinero Insurance

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LABOR

State Building and Construction Trades Council of CA
California State Council of Service Employees
California Nurses Association
California School Employees Association
Central Labor Council of Contra Costa County, AFL-CIO

HEALTH

American Cancer Society, California Division
Health Officers Association of California
California Conference of Local Health Officers
California Association of Hospitals and Health Systems (CAHHS)
California Pharmacists Association
California Association of Health Maintenance Organizations (CAHMO)
California Council on Alcohol Problems
State of California Tobacco Education Oversight Committee
California Mental Health Directors Association
Pleasant Hill CASA (Community Against Substance Abuse)
FHP, Inc.
Charles R. Drew University of Medicine and Science
National Black Leadership Initiative on Cancer

LOCAL GOVERNMENT

League of California Cities
City of Los Angeles
City of San Diego
City of South Lake Tahoe
City of Huntington Park
City of Modesto
City of Del Mar
City of Santa Monica
City of Menlo Park
Alameda County
County of El Dorado
City of Martinez
City of Norco
City of Palo Alto
City of Fremont
County of Santa Cruz
Rancho Palos Verdes
City of Belmont
City of Vista
City of Napa

OTHER

University of California
Sierra Club California
Worksafe North; Worksafe South
California Conference of Parents, Teachers and Students (PTA)
Children's Advocacy Institute
Church State Council
(Partial List)

AB 13 passed the Senate Health and Human Services Committee 7-1 on July 14, 1993, with the following exemptions:

1. Any "free-standing" bar. "Free-standing" bar means any bar classified as a public premise type 48 bar, serving no food or incidental food and with access restricted to those 21 years of age and older. Any bar or tavern that is located within a hotel, motel, or similar lodging establishment or other building that meets similar criteria.
2. Any cardroom or charity bingo facility, as defined in the Business and Professions Code or Penal Code and with access prohibited to minors (under age 18.)
3. That portion of warehouse facilities of more than 100,000 square feet and employing 20 or fewer full-time employees that is not defined as office space.
4. Municipal or county owned or operated convention center facilities, with no guest rooms that provide accommodations for overnight guests and with only incidental service of food to the public, in jurisdictions with a population of 250,000 or more.
5. Portions of hotel and motel lobbies.

ECONOMIC IMPACT OF A STATEWIDE WORKPLACE SMOKING BAN

AB 13, which would prohibit smoking in all indoor workplaces in California, is not only good for the health of California workers, but good for the health of California businesses. Employers currently are paying enormous costs incurred by workplace smoking. In addition to decreased productivity and increased absenteeism caused by workplace smoking, employers pay increased health care, disability and cleaning costs. Most importantly, they assume liability for a growing number of workers' compensation claims by non-smokers whose health has suffered as a result of workplace exposure to secondhand smoke.

WORKPLACE SMOKING IMPOSES COSTS ON BUSINESS

Business & Health, a monthly journal for corporations interested in curbing health care and related costs, published a 1992 Special Report, "A Look at Smoking in the Workplace." It concluded there are many ways in which cigarette smoking drains companies' resources - both human and financial. The report relied on U.S. Department of Health and Human Services figures showing that direct health care costs related to smoking in 1990 amounted to \$23.7 billion. The report says "Since employers pay for much of the health care in this country, and because most companies are struggling to contain soaring health care costs, it is clearly in the interests of every employer to acknowledge the financial impact of smoking on employees, on their dependents, and on the company itself."

A 1992 University of California, San Francisco study found that smoking in California costs more than \$7.6 billion a year in health care expenditures and lost productivity due to disease and early death. This amounts to \$256 a year per Californian, or \$1,543 per smoker. Much of this cost is borne by employers, who pay for employees' health care and whose productivity is at stake.

Smoking wastes energy and money. According to Environmental Improvement Associates of New Jersey, for every 1 of 100 employees who smokes in the workplace (a very low estimate), the smoker's employer would incur \$1,352 per year additional air conditioning or heating costs. Ten additional tons of air conditioning are needed for each 100 persons, at a cost of approximately \$1,000 per ton, equalling \$10,000 per year. (These are 1984 figures - the costs now would be much higher.)

Governor Wilson, in his role as employer for all state employees, issued an executive order in February 1993, banning smoking in all state-owned and leased buildings. He stated, "The evidence is overwhelming that smoke-free workplaces can improve the health of workers, raise their productivity and boost morale. Smoke-free workplaces have lower cleaning costs, less damage to furniture and carpets, and less risk of fire and other accidents."

EXAMPLES OF WORKERS' COMPENSATION CLAIMS FROM ENVIRONMENTAL TOBACCO SMOKE (ETS) EXPOSURE

Workplace exposure to ETS can cause adverse and potentially deadly health effects and may exacerbate pre-existing conditions, such as asthma or heart disease. As more information about the dangers of ETS has been documented, a growing number of California employees have filed workers' compensation claims based on their workplace exposure to ETS. Here are some examples:

* A non-smoking bartender under 35 years old who worked for a major hotel chain in the Bay Area for eleven years contracted lung cancer, which was diagnosed in 1991. The employee's physician determined that the cancer resulted from workplace exposure to ETS. The medical costs to date are over \$25,000 and the employee is receiving State Disability until the workers' compensation claim against the employer is settled.

* A non-smoking waiter who worked in a restaurant which allowed smoking received over \$80,000 in workers' compensation medical care and benefits for a heart attack which he claimed was caused by ETS.

* An insurance company employee received a \$10,000 workers' compensation settlement for lung damage caused by ETS; a second workers' compensation claim is pending. The employee also received \$15,600 in State Disability payments.

SMOKING BANS DO NOT CAUSE BUSINESS OR JOB LOSS

The Taylor Consulting Group, a San Luis Obispo market research and public opinion polling firm, published "The San Luis Obispo Smoking Ordinance: A Study of the Economic Impacts on San Luis Obispo Restaurants and Bars" in January 1993. San Luis Obispo banned smoking in restaurants, bars and other establishments in August, 1990. The study concluded that "the ordinance has had no measurable impact on the profitability of San Luis Obispo bars and restaurants, or on the sales tax revenues of the City of San Luis Obispo."

A recent survey of 40 organizations which had booked conventions in San Diego showed that only one group, which was connected to the tobacco industry, would not have booked a convention in San Diego had smoking been prohibited in hotels there. The survey purposely excluded a large number of medical groups, which presumably support smoking restrictions, in order to avoid bias.

A March, 1993 study by the University of California San Francisco (UCSF) analyzed California and Colorado sales tax data from restaurant sales from the first thirteen U.S. cities to enact ordinances banning restaurant smoking. The restaurant sales tax data were analyzed to determine whether sales had decreased after passage of the ordinances. The study concluded that there is no evidence that restaurant smoking bans have any effect on sales.

HERE'S WHAT BUSINESSES SAY ABOUT WORKPLACE SMOKING AND AB 13

The Restaurant Enterprises Group, Inc., a trade association representing over 20 restaurants and restaurant chains, including Carrow's and Charley Brown's, supports AB 13 because it:

"may eliminate a further explosion of tobacco smoke related worker's compensation cases costing California employers millions of dollars. Anything which may limit the exposure of California employers could only be perceived as a positive during the current economic downturn...By having one state law governing smoking in the workplace, employers will not have to deal with myriad of city ordinances."

The Building Owners and Managers Association of California (BOMA) supports AB 13 because:

"the complete elimination of smoking in office buildings may go a long way towards enhancing indoor air quality. In turn, owners and managers may achieve associated savings due to reduced heating, ventilation and air conditioning maintenance requirements resulting from reduced indoor contaminants."

Southern California Gas Company (SoCalGas) supports AB 13 because:

"it positively impacts an employer's ability to reduce employee health risks from inhaling tobacco smoke...In addition, it provides employers in multiple locations a consistent statewide non-smoking policy to enforce...It is impractical for SoCalGas and other employers to provide separate ventilated work areas."

The Greater Redding Chamber of Commerce supports AB 13 because:

"a statewide ban will provide a more level playing field for businesses."

The Los Angeles Area Chamber of Commerce backs AB 13, and states:

"... we are supportive of AB 13. It is consistent with the Chamber's policy emphasis on health promotion and deals with the concerns that employers do have with regards to potential liability. We also agree that there should be uniformity of laws throughout the state. Particularly in the case of the hospitality industry, community-by-community differences create difficulty for individual establishments and confusion for patrons."