

Region 1—New England

LEGISLATIVE Update

The Tobacco Institute

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REGIONAL TOPICS

Voter opinion surveys conducted during March throughout New England clearly indicate that the public is not in favor of government-mandated restrictions on smoking in public places, like the workplace and restaurants. Of those surveyed, 73 percent believe that the government should not regulate private and personal behavior. (Some state totals were much higher than this average.) Similarly, on the question of smoking in public, 77 percent believe there should be non-statutory resolutions to the problem, if and when it arises. While it is true that the legislature can enact bills for a variety of reasons, on this issue, they can't use public demand.

More and more of the New England states are taking a closer look at the sale of cigarettes to minors. Some of the state laws and enforcement of them has led to some confusion on the part of retailers and vendors alike. The industry does not encourage the sale of cigarettes to minors. In fact, through the "Helping Youth Decide" program, we are attempting to encourage kids not to smoke. Any questions on the various state laws as they pertain to minors can be referred to this office.

CONNECTICUT TOPICS

On 3/6 the Joint Labor and Public Employees Committee heard testimony on H5095, the workplace bill. Speaking in opposition to the bill were TI counsel John King, Esq.; Charlie Duffy, New England Convenience Store Association and Connecticut Retail Merchants Association; a representative from the Connecticut State Department of Labor; and Jan Spegele, Connecticut Business and Industry Association. Written opposition was presented by the AFL-CIO Executive Committee and others.

The primary issue, the effect of environmental tobacco smoke on nonsmokers, was addressed by Philip Witorsch, M.D., Medical Director, and Sorell Schwartz, Ph.D., Scientific Director, both of the Center for Environmental Health and Human Toxicology, and Gray Robertson, President, ACVA Atlantic. In each case, the question of indoor air pollution and the assertions that cigarette smoking is a hazard to nonsmokers was confronted and opposed

forcefully and directly. As Dr. Witorsch indicates, "The simple fact is that there is no persuasive evidence that environmental tobacco smoke presents a chronic health risk to the nonsmokers."

The committee moved the bill out to the Joint Public Health Committee on 3/12 on a 10-4 vote. Sens. Hampton (R-Haddam) and Harper (D-New Britain) and Reps. Emmons (R-Maddison) and Neumann (R-Granby) opposed the bill. After a confused series of votes in the Joint Public Health Committee--in which some members feel the bill was defeated--it was moved to the Joint Appropriations Committee. Consideration by that committee and an analysis of the rules are currently ongoing in the legislature.

MAINE TOPICS

The legislature has not taken up L.D.1690, the restaurant policy notice bill, since Sen. President Charles Pray ruled that the bill fell under Joint Rule 37, requiring a 2/3 vote of both houses to pass.

MAINE TOPICS (Cont.)

In other matters, the Joint Taxation Committee first gave L.D.1968, smokeless sampling, taxes, and warning labels, an "Ought Not to Pass" report by a vote of 9-2 and then reversed itself a week later with a 10-2 vote approving "Reconsideration." This puts the bill back under review in the committee for the remainder of the session.

Finally, the Governor's budget appears to be \$35 million short because it relies in part on the sale of the state liquor stores to private operators. This proposal has been rejected by previous legislatures. This could create the revenue shortfall and an eye glanced in the direction of the state cigarette excise tax if the revenues are not located through other sources.

MASSACHUSETTS TOPICS

The Massachusetts Bay Transportation Authority's (MBTA) proposed ban on cigarette advertising is still not concluded. The elimination of cigarette advertising from all MBTA facilities and vehicles was reported somewhat prematurely in February by the press as an approved regulation. In fact, it is not, but it is well on its way to becoming one.

The impetus for the proposal comes directly from Governor Dukakis and his wife, Kitty. However, it may be the first of a series of moves to prohibit all advertising on MBTA facilities. The newly-proposed contracts, which include a prohibition on cigarette advertising, also include a number of other provisions that are offensive to the advertising industry.

Opposition to the proposal comes not only from TI and its member companies, but also from local advertising agencies, like Transit America. The MBTA collects approximately \$1 million a year on its space rented to cigarette advertisers. That's a lot of income to give up for a system that annually operates at a deficit--a deficit that is subsidized by the local communities served by the MBTA. More on this issue next month.

MASSACHUSETTS TOPICS (Cont.)

On the local front, Town Meeting members in Westborough REJECTED regulations on smoking in restaurants for the second year in a row. The close 117-123 vote came on 3/19, the fourth day of the Town Meeting.

However, in central Massachusetts the Leominster board of health did approve regulations on smoking in restaurants during the month. In Marlborough and Watertown, there appears to be some interest in replacing existing voluntary programs with restrictive regulations. Some action may come here in April or May.

The Brockton Mayor's Health & Human Services Task Force REJECTED a call to introduce ordinances to regulate smoking in restaurants, public places, and all workplaces. Opposition to the proposal was coordinated by Ted Welte, Executive Vice President, Metro-South Chamber of Commerce in Brockton.

All tobacco-related bills in the Joint Health Care and Joint Commerce and Labor Committees will be heard on 4/7.

NEW HAMPSHIRE TOPICS

The Senate Public Institutions/Health Care Committee held hearings on H35, the grocery bill, and H133, the workplace bill, during March. Because of the large number of people who wanted to be heard on the bill, the hearings extended over a two-day period on 3/12 and 3/26.

Speaking in opposition to the bills were: John Dumais, New Hampshire Retail Grocers Association; Phil Kennedy, New Hampshire Hospitality Association; Yvonne Nanasi, Business & Industry Association of New Hampshire; and Greg Howard, New Hampshire Commerce and Industry Association. Also registering their opposition were the Retail Merchants of New Hampshire and other individual businesses. Presentations on behalf of the tobacco industry were made by Philip Witorsch, M.D., Medical Director, Center for Environmental Health and Human Toxicology; Dr. Dennis Logue, professor of economics, Amos Tuck School of Business Administration, Dartmouth College; Ron Riley, KRC Research; and TI counsel John Mitchell.

MAJOR STATUS CHANGES OF INTRODUCED LEGISLATION

CT H 5095 Workplace
J Labor & Public Employees (Approved) --> J Public Health (Approved) --> J Appropriations (PENDING)

LCO XXX Smokeless Warning Labels
Approved for Intro --> DEFEATED

ME L.D. 238 Taxation - Roll Back
J Taxation (Rejected) --> House Floor (Rejected) --> Senate Floor --> DEFEATED

L.D. 1690 Restaurant Policy Notice
J Human Services (Approved) --> House Floor (Approved) --> Senate Floor (Rejected) --> House Floor (PENDING)

L.D. 1752 Smokeless Warning Labels
J Human Resources (Rejected) --> House Floor (Rejected) --> Senate Floor --> DEFEATED

NH H 125-FN Sampling, Sales to Minors
H Ways and Means (Approved) --> House Floor (Approved) --> S Ways and Means (PENDING)

H 179 Taxation - Misc. Tax-Free Cigarettes to Elderly Home
H Ways and Means (Rejected) --> House Floor --> DEFEATED

H 370-FN Taxation - Language Clarification
H Ways and Means (Approved) --> House Floor (Approved) --> S Ways and Means (PENDING)

VT H 286 Restrictions - Workplace
H Health & Welfare (Approved) --> House Floor (Re-assigned) --> H General & Military Affairs (Rejected) --> House Floor (Re-assigned) --> H Health & Welfare --> (Approved) --> House Floor --> DEFEATED

H 519 Health Insurance
H Commerce --> DEFEATED

H 582 Smokeless Warning Labels
H Health & Welfare --> DEFEATED

S 127 Restrictions - Public Places
S Institutions --> DEFEATED

S 244 Workplace
S Health & Welfare --> DEFEATED

S 264 Smokeless Warning Labels
S Health & Welfare --> DEFEATED

SUMMARY OF INTRODUCED LEGISLATION

STATE	BILL	ISSUE	STATUS
<u>CT</u>	H 5095 LCO XXX	Workplace Smokeless Warning Labels	J Appropriations DEFEATED
<u>ME</u>	L.D. 238 L.D. 1690 L.D. 1752 L.D. 1968 L.R. 5176 L.R. 5351 L.R. 4970	Taxation - Roll Back Restaurant Policy Notice Smokeless Warning Labels Smokeless Warning Labels, Taxation, Sampling Smokeless Warning Labels Smokeless Sales to Minors Restrictions - Restaurants	DEFEATED DEFEATED DEFEATED J Taxation DEFEATED - L.D. 1690 DEFEATED - L.D. 1690 DEFEATED
<u>MA</u>	H 159 H 168 H 169 H 720 H 1603 H 1657 H 1848 H 1853 H 2018 H 3282 H 3353 H 3542 H 3715 H 3750 H 3889 H 4034 H 4300-A H 4448 H 4580 H 4587 H 5188 S 61 S 77 S 78 S 79 S 174 S 368 S 370 S 371 S 372 S 452 S 734 S 771 S 863 S 900 S 1538 S 1591 S 1592	Transmittal Letter w/ Smokeless Smokeless Warning Labels, Nicotine Content, Sampling Taxation - Smokeless Prohibition of Smoking Taxation - Earmarking Restrictions - Public Places Restrictions - Beano games Restrictions - Public Places Workplace Taxation - Earmarking Restrictions - Nursing Homes Self-Extinguishing Restrictions - Public Places Insurance Study Commission - Restrictions Taxation - repeal of excise Misc - Emerg. Serv. Employee Pension Prohibition of Smoking Prohibition of Smoking Restaurants - Ventilation Exemp. Taxation - Rolling Paper Advertising, Sponsorship Advertising - Taxicabs Advertising - Billboards Sampling Prohibition of Smoking Resolution - Hazardous Substances Resolution - Consumer Product Safety Resolution - Toxic Substances Control Resolution - Ingredients List Sales - Health Care Facilities Insurance Insurance Prohibition of Smoking Restrictions - Jury Rooms Taxation - Smokeless Advertising - MBTA Sales - MBTA	J Health Care J Health Care J Taxation J Health Care J Taxation J Health Care J Health Care J Health Care J Health Care J Health Care J Taxation J Health Care J Health Care J Health Care J Insurance J Health Care J Taxation J Public Service J Health Care J Health Care J Health Care J Taxation J Commerce & Labor J Commerce & Labor J Commerce & Labor J Commerce & Labor J Criminal Justice J Fed. Fin. Asst. J Fed. Fin. Asst. J Fed. Fin. Asst. J Fed. Fin. Asst. J Health Care J Insurance J Insurance J Insurance J Judiciary J Judiciary J Taxation J Transportation J Transportation
<u>NH</u>	H 35 H 125-FN H 133 H 179 H 370-FN S 92-FN LSR 181 LSR 182 LSR 275	Restrictions - Grocery Stores Sampling, Sales to Minors Restrictions - Workplace Taxation - Misc. Taxation (Comp. to S 92-FN) Taxation (Comp. to H 370-FN) Sales Restrictions - Vending Machines Sales Restrictions - Vending Machines Smokeless Warning Labels	S Pub Inst/Health Care S Ways and Means S Pub Inst/Health Care DEFEATED S Ways and Means S Ways and Means DEFEATED DEFEATED DEFEATED

STATE	BILL	ISSUE	STATUS
<u>RI</u>	H 5075 H 5076 H 5590 H 5591 H 5592 H 5593 H 5811 H 5833 H 5854 H 7017 H 7031 H 7149 H 7317 H 7363 * H 7479 H 7542 H 7756 * H 7899 * H 8327 * H 8488 * H 8497 * H 8573 S 189 S 738 S 2147 S 2271 * S 2643 * S 2722 * S 2909	Sales to Minors Restrictions - Workplace Taxation - Sunset Taxation - Earmarking Taxation - Earmarking Taxation - Earmarking Taxation - Earmarking Taxation - Earmarking Restrictions Resolution Sales to Minors Smokeless Warning Labels, Minors (Comp. S 2147) Smokeless Warning Labels Resolution - Restr - House Chamber Resolution - extend Commission date Taxation - Sunset Workplace Workplace - Labor Discrimination Restrictions - Restaurants Sales to Minors Taxation - Earmarking Product Liability Insurance Taxation - Earmarking Smokeless Warning Labels, Minors (Comp. H 7149) Resolution - Restr - Senate Chamber Workplace Restrictions - Public Places Sales to Minors	H HEW H HEW H Finance H Finance H Finance H Finance H Finance H Finance H HEW Special Legislation H Judiciary H HEW H HEW H HEW S HEW H Finance H HEW H Labor Legislation H HEW H Judiciary H Finance H Corporations S HEW S Finance S HEW ENACTED S HEW S HEW S HEW
<u>VT</u>	H 66 H 161 H 286 H 287 H 519 H 582 * H 664 S 127 S 244 S 264	Taxation - Sunset Sales Tax Exemption Restrictions - Workplace Sales Tax Exemption Health Insurance Smokeless Warning Labels Misc - Public Health Hazards Restrictions Restrictions - Workplace Smokeless Warning Labels	H Ways & Means H Ways & Means DEFEATED H Ways & Means DEFEATED DEFEATED H Ways & Means DEFEATED DEFEATED DEFEATED

Total Bills - 95

* = New introduction since last Summary

J = Joint (ie, Joint Taxation Committee)

H = House (ie, House Finance Committee)

S = Senate (ie, Senate Finance Committee)

HEW = Health, Education and Welfare Committee (in RI)

The committee is likely to taken some very restrictive action in April on the bills.

In state tax matters, the House and Senate have passed similar versions of the "tax language clarification" bill. However, a key portion of the Senate bill, S92-FN, calls for a "pick-up" of any amount of the federal tax that sunsets only if Vermont also picks up the tax. The tie to Vermont is not part of the House bill, H370-FN. That conflict will have to be resolved in a conference committee. The bills still make no attempt to increase the state's cigarette excise tax or impose a tax on smokeless tobacco.

RHODE ISLAND TOPICS

This year the Rhode Island legislature has the "distinction" of having the second highest number of anti-tobacco bills in the Region. New introductions this month include H7479, extending the reporting date for 1985's "study commission;" H7899, preventing discrimination against an employee organizing an anti-smoking activity in the workplace; H8327, 50% nonsmoking sections in restaurants; H8488 and S2909, both increasing the minimum purchase and use age from 16 to 18; H8497, \$.016 tax increase; H8573, product liability; S2643, workplace; and S2722, public places.

Hearings will be held in the House Health, Education and Welfare Committee on 4/2 on H7756, workplace, and in the Senate Health, Education and Welfare Committee on S2643, workplace. A hearing will also be held in the House Labor Committee on H7899, the workplace discrimination bill.

The most dangerous of the new bills is H8573, "AN ACT Relating to Liability for Damage Caused by Cigarettes and Other Tobacco Products." Under this law, if enacted, the burden of proof shifts from the claimant to the manufacturer.

The industry is opposed to this special treatment of its product in this area of product liability. During the past 30 years, numerous product liability cases have been brought against the cigarette industry. In all that time, the industry has never lost a court case or settled with a claimant.

VERMONT TOPICS

For the second time in the 1980's the Vermont House of Representatives has REJECTED legislation imposing restrictions on smoking in public. On 3/13 the House voted 86-56 against H286, the workplace bill.

After almost two full legislative sessions of hearings and debates on the issue, the House members were not convinced that there was a need for this type of government intrusion. Reps. Harris (D/R-Windsor), Gadapee (R-Danville), DaPrato (D/R-Swanton), and Bronson (R-Shefburne and a sponsor of the bill) spoke in opposition on the House floor. The bill had been reviewed twice by the House Health and Welfare Committee, which gave it all but unanimous support. Only Rep. Mike Bernhardt (R-South Londonderry) consistently opposed the bill in committee. Consideration of the bill by the House General and Military Affairs Committee produced a different result. That committee, chaired by Rep. John Murphy (D/R-Ludlow), rejected the bill by a vote of 6-3. In the final analysis, the members of the House agreed with the House General and Military Affairs Committee.

Five other tobacco-related bills were DEFEATED when they failed to receive committee action before the 3/7 deadline. These include: H519, health insurance; H582 and S264, smokeless warning labels; S127, public places; and S244, workplace.

Three tobacco tax-related bills, although not receiving committee action before 3/7, are still pending before the legislature. These include: H66, taxation; H161 and H287, sales tax exemption.

A new bill, H664, while not directly related to the tobacco industry, would give broad powers to the state Public Health Commissioner to determine and eliminate public health hazards. The original idea was to control hazardous and toxic wastes. However, the language is vague enough to possibly allow a prohibition of sales of such items as cigarettes, beer, alcohol, sugar, and salt.

NATIONAL TOPICS

After a week of "sunset," the Congress finally passed H.R.3128, the Budget Reconciliation Package, on 3/21. The legislation makes the \$.16 federal excise tax on cigarettes permanent, imposes new taxes on snuff and chewing tobacco, and includes the language of the Helms-Ford tobacco farm stabilization act. President Reagan is expected to sign the legislation. This issue is of particular interest to tobacco wholesalers in Massachusetts, where the state Department of Revenue has begun issuing new tax stamps at a rate of \$.34. The federal legislation is retroactive to March 15. However, there are persistent rumors that an official with a state tax administrators association has encouraged Connecticut, Rhode Island, and Massachusetts revenue department heads to raise their taxes. If you have any questions on this confusing issue, please feel free to give the TI Region I office a call (collect).

In other federal matters, hearings began on Senate Finance Committee Chairman Packwood's (R-Oregon) proposed tax package. The Senator's proposal would change the current excise taxes on tobacco, alcohol, motor fuel and other commodities to "ad valorem" taxes. Under this taxing-scheme, the tax would change from a flat rate to a percentage of the manufacturer's price. Any increase in the price would result in an automatic tax increase. Two New England Senators, George Mitchell (D-Maine) and John Chafee (R-Rhode Island) are members of the Senate Finance Committee. Additional hearings will be held during April on the measure.

On 3/11 Secretary of Defense Caspar Weinberger decided that there would be no change in either the pricing or availability of cigarettes at military commissaries and post exchanges. The Dept. of Defense will implement a two-year educational program on smoking and review its sales program at the end of that time.

PEOPLE

The efforts of Chris Barbieri, Vermont State Chamber of Commerce, Peter Foote, Associated Industries of Vermont, and Karen Kent, Vermont Retail Merchants Association, were largely responsible for the defeat of H286 in Vermont. Our sincere thanks to them.

Thanks to R.J. Reynold's Gary Loser for his concerns about local Massachusetts anti-tobacco action.

Many thanks to Thom McCabe, owner of Tom Foolery's Restaurant, and John Antonio, owner of JP's Restaurant Pub, in Westborough, MA for their efforts to coordinate the opposition of the restaurateurs in the town to Town Meeting Article 92, the restaurant smoking control ordinance.

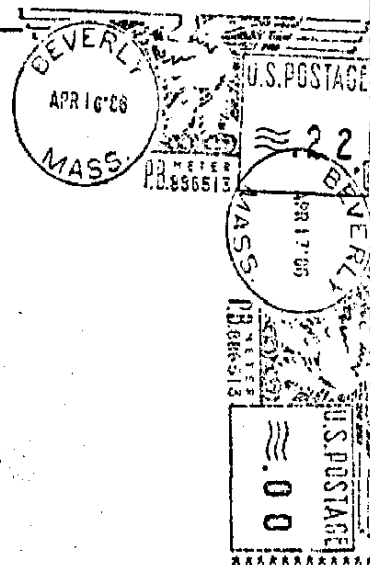
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