

Executive Summary



From
The
Tobacco
Institute

Friday, May 8, 1987

MAJOR DEVELOPMENT

TI and its labor movement allies responded quickly to a call by the American Public Health Association (APHA) and Ralph Nader's Public Citizen Health Research Group (HRG) for an emergency OSHA ban on smoking in the workplace.

The AFL-CIO had tried to dissuade the Nader group from proceeding with its plans for a May 6 press conference. When news conference plans were announced, TI noted a lack of scientific evidence on which to base the petition. Institute staff referred reporters seeking additional information to ventilation expert Gray Robertson and industrial hygienist Jack Peterson. A satellite radio feed from TI included critical comments from Robertson and Peterson.

Also available to respond to media were AFL-CIO OSHA director Peg Seminario, who called upon OSHA to deal with hazards peculiar to the workplace rather than be distracted as "smoking cops," and Tobacco Industry Labor Management Committee (LMC) members Jim Golden of the Sheet Metal Workers, who serves on a National Academy of Sciences committee studying building air quality, and Ray Scannell of BC&T. A third LMC member, Carpenters' OSHA director Joe Durst, is drafting a letter to OSHA formally requesting denial of the petition.

TI staff is assessing the OSHA review process. Although even the APHA and HRG admit that a formal rulemaking is unlikely, the AFL-CIO has assured us that OSHA departments in unions will join us in opposing any OSHA attempt to regulate workplace smoking.

AT THE FEDERAL LEVEL

* On May 7, Congressman Luken's Subcommittee on Transportation, Tourism and Hazardous Materials heard testimony on the FTC's decision to close its cigarette testing laboratory. Congressmen Luken, Florio, Cooper, Whittaker and Tauke were present. Witnesses included FTC Chairman Oliver and representatives of the American Lung Association and the American Heart Association. Luken's written opening statement is attached. The other statements will be forwarded under separate cover.

All members present criticized the FTC's decision and supported continued government testing -- possibly by another agency such as the FDA or the Consumer Product Safety Commission. Luken suggested that he would offer an amendment reestablishing the FTC program to be paid for by a tobacco company "user fee." He said that he would ask the General Accounting Office and the Congressional Office of Technology Assessment to examine (1) the health consequences of low tar and nicotine cigarettes and (2) the safety of cigarette additives.

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We will attempt to get a clearer signal as to Luken's intent and assess the feasibility of reestablishing the FTC program.

* The Senate has approved a Budget Resolution requiring additional revenues of \$18.3 billion, very close to the House-passed version. The conference committee may meet as early as May 12 to resolve House-Senate differences between the House and Senate-passed resolutions.

During debate the Senate defeated, 69-29, a Chaffee-Heinz-Durenberger Amendment to increase Medicare and Medicaid expenditures by \$2 billion. The amendment was silent about revenue sources, but Heinz suggested a ten-cent increase in the cigarette tax.

IN THE STATES

* A five-member panel of the New York State Appellate Court unanimously ruled this week that the Public Health Council's smoking regulations could not take effect May 7 as scheduled or until the court reviews the state's appeal; oral argument is set for June 12.

The New York Chamber of Commerce and Industry and the New York Business Council have tentatively agreed to sponsor informational brochures drafted by TI staff as part of a contingency plan requested by the Executive Committee. State Activities Policy Committee members will review the brochures next week at their May 15 meeting.

Meanwhile, Governor Cuomo released a plan for raising \$1 billion for road and bridge construction, including a three-cent cigarette tax increase, a 25-percent surcharge on alcoholic beverage taxes and an increase in motor vehicle fees. TI conducted a strategy session earlier this week on plans to deal with all New York issues.

* The Rancho Mirage, CA, City Council rejected a total workplace and public place smoking ban last night. After five hours of public testimony, a weaker proposal was substituted and given first reading approval by a 4-1 vote. The new measure would allow smoking in up to one-third of restaurant dining areas and in bar areas. Employers would be allowed to set up separate, enclosed smoking lounges. Charcoal air filtration systems would be required in all smoking areas.

Among other efforts: TI helped organize the Rancho Mirage Restaurant and Merchants Association to lead the charge against the measure; ventilation consultant Gray Robertson held a three-hour meeting with the mayor and the head of the Restaurant and Merchants Association; and Robertson also wrote each council member on the issue and gave numerous press interviews. Also, an IAPAG scientist testified at the May 7 hearing.

* TI efforts helped ensure that a Colorado "clean indoor air" bill stalled in the House Appropriations Committee. Further action on it this session is unlikely, and anti-smokers indicate they may now try the initiative route.

* After hearing expert ventilation, scientific and legal testimony May 4, the Texas House State Affairs Committee took no action on a smoking restriction bill... Nebraska anti-smokers brought a restriction measure up on the floor last week, and it did not come close to passage.

* The Hawaii legislature sent two restriction measures to Governor Ariyoshi last week. One would restrict smoking in state and local government offices, while the other would limit smoking in restaurants, retail stores and other public places.

* Minnesota conference committee action on budget proposals is expected to start soon. House and Senate measures differ on some points, but both bills include a 15-cent cigarette tax hike and a ten percent increase in the tax on other tobacco products. TI staff, legislative counsel and member company personnel are in the midst of a full-court press in this very difficult challenge.

IN OTHER MATTERS

* We reported in March on a letter from the five presidents of the LMC unions, opposing a Health Security Action Council suggestion to finance catastrophic health insurance with tobacco excise taxes. "We share your views with respect to the regressive effects of increasing excise taxes and want to assure you that the Federation will oppose any such proposals," was the AFL-CIO's response.

Similar messages have been passed in the last week from the AFL-CIO to a meeting of representatives of the American Association of Retired Persons, the National Council of Senior Citizens, the insurance industry and the Senate Labor and Human Resources Committee, and to the Save Our Security Coalition. In those meetings, Federation opposition derailed resolutions that would have called for funding of catastrophic health care with higher excise taxes.

* TI staff is aggressively disseminating "Don't import this Canadian idea," an excellent Ad Age editorial criticizing attempts by anti-smokers to utilize Canada's ban on tobacco advertising and promotion to justify such a ban in the U.S. Reprints of the editorial are going to 3000 media gatekeepers, and plans also call for wide distribution on the Hill through lobbyists and a Congressional Record insertion. The Freedom to Advertise Coalition will also distribute it to the advertising, newspaper and magazine industries.

* **TI MEDIA WATCH:** Producers and researchers for "60 Minutes" started work this week on a tobacco product liability story, which apparently will parallel the recent Wall Street Journal front-page article dealing with the industry's legal tactics. Producer Richard Bonin says the story is definitely on and will be produced on a rush basis... A "20/20" segment on workplace smoking is stalled, perhaps permanently, as the result of the death of producer Martin Carr... ABC's "Nightline" chose at the last moment Wednesday not to air a show on the Rancho Mirage smoking restriction debate... TI submitted this week two op-ed pieces, one on workplace smoking and the other on Air Canada's smoking ban, for publication in a total of 318 newspapers. Both pieces will start appearing later this month in Scripps Howard and Gannett chain papers across the nation.