

PRO-ACTIVE PROPOSAL

**MASSACHUSETTS
HIRING DISCRIMINATION**

LEGISLATIVE ACTION

September 26, 1989

STATE/LOCALITY:

Massachusetts

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:

Massachusetts AFL-CIO; legislative sponsor to be selected.

INTRO DATE:

Prefile

COMMITTEE:

To be assigned, possibly Commerce & Labor

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. This legislation would be postured as a labor and not a tobacco issue.

The industry would play a supportive role in the development and passage of this 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 employer's ability to fill openings? Also, there is a need to develop responses to the argument that smokers cost employers money.

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 for 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,

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minority groups or members of the legislature. In addition, one or two "Op-ed" articles may 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.

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 their legislative counsel to meet periodically 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 PROPOSAL

**MASSACHUSETTS
INDOOR AIR QUALITY**

LEGISLATIVE ACTION September 26, 1989

STATE/LOCALITY: Massachusetts

BILL NUMBER: Not assigned (Refile from 1989 Session)

ISSUE: IAQ (Workplace - ASHRAE Standards)

SUMMARY: Establish state-wide IAQ standards for workplaces. Potential for preempting anticipated local action on this issue.

SPONSOR: Massachusetts State Federation AFL-CIO, supported directly by the Massachusetts State Employees Union, International Brotherhood of Sheetmetal Workers and others (potential sponsors include Rep. Travinski and Sen. Golden)

INTRO DATE: Prefile

COMMITTEE: Joint Committee on Commerce and Labor

HEARING DATE: To Be Announced

LEGISLATIVE STATUS: 1989 legislation will be amended and approved by the Committee prior to adjournment, possible House approval during this session. 1990 bill will have to start over in Joint Committee.

INDUSTRY ACTION September 26, 1989

The purpose of the legislation is to reduce or eliminate the potential for adoption of a state-wide workplace smoking restriction law. Other potential benefits might include preempting localities from enacting more restrictive ordinances in the future. As with most types of positive legislation introduced in the Northeast, identification of the tobacco industry as the primary sponsor would be of no value to the effort. The plan is to reintroduce the legislation that is the 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 reiterating support for the legislation by the AFL-CIO during the up-coming legislative convention. This is being arranged through the offices of local labor counsel.

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. A comprehensive analysis of the economic impact of the effects of the proper maintenance of indoor air quality standards must be developed. This analysis should include 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: (1) for presentation by labor interests; and, (2) for presentation to business interests by the industry and for subsequent presentation by those identified business interests to legislators.

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 will be needed. 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 programs 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 member company lobbyists to meet periodically with the TI lobbyist to coordinate the industry's support for the efforts of labor and other allied groups. The industry's lobbying support will be conducted in a very targeted format to reduce 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 and media relations materials 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 PROPOSALS

**MASSACHUSETTS
SAMPLING PREEMPTION**

LEGISLATIVE ACTION September 26, 1989

STATE/LOCALITY: Massachusetts

BILL NUMBER: To Be Assigned (Refile from 1989 session)

ISSUE: Tobacco sampling restrictions

SUMMARY: Uniform sampling code including preemption of local bans

SPONSOR: To be identified: Sen. William McLean, Jr., possible sponsor.

INTRO DATE: Prefile

COMMITTEE: To Be Assigned

INDUSTRY ACTION September 26, 1989

This legislation was first introduced and narrowly defeated in Massachusetts in 1987. The primary purpose of the bill is to cut off the 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 currently enacted local bans.

This legislation is defensive in nature. The chances of enactment are slim, with a slightly greater chance in Massachusetts than in other New England states. However, the effects of putting anti-tobacco forces into an unaccustomed defensive posture will help to dissipate their capacity to attack us.

RESOURCES NEEDED	YES/NO	DATE NEEDED
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ECONOMIC ANALYSIS/FACTSHEET?	YES	12/1/89
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Factsheet regarding present sampling practices of the member companies of the Tobacco Institute and the Smokeless Tobacco Council for circulation among legislators. This request is actually for two separate documents -- One, 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. Included in this second document should be 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
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In the past we have developed legal memoranda for Massachusetts. This concept should be expanded and updated for the 1990 session. The memorandum should include a discussion of the preemption issue and a positive review of the proposed legislation, including its ability to meet the preemption requirements of federal law.

EXPERT WITNESSES?

YES

1st Qtr 1990

When a committee hearing is scheduled, we will need representatives of companies engaged in sampling to appear as witnesses. Some of these individuals (Steve Bellissimo, Phoenix Marketing) have been used with great effect in the past. We should be sure we understand the sampling methods used by the smokeless tobacco people. Their methods are different from those of the cigarette manufacturers.

COALITION ALLIES?

YES

1st Qtr 1990

There are likely few, if any, allies available on this issue although it may be possible to solicit help from the state's wholesalers, retailers, and chamber of commerce. In the past, we have received some support from organized labor in defeating sampling ban legislation. However, it is not yet clear that labor could take a positive position on this issue. It is likely that 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 entirely on the direct lobbying activities of the industry and its selected allies.

COMPANY RESOURCES?

YES

1st & 2nd Qtrs 1990

Access to the Philip Morris, R.J.R./Nabisco, U.S. Tobacco and wholesaler legislative counsel for periodic meetings to coordinate statehouse activities.

PUBLIC AFFAIRS/MEDIA RESOURCES?

YES

2nd Qtr 1990

It is possible that some members of the legislature might be interested in the "Helping Youth Decide" program. This could 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

**MASSACHUSETTS - LOCAL
RESTAURANT RESTRICTION
ROLLBACK**

LEGISLATIVE ACTION

September 26, 1989

STATE/LOCALITY:

Massachusetts: Somerville, Malden & Braintree

ISSUE:

Restaurant Restrictions

SUMMARY:

Reduce stringent local ordinances to level of state statute's requirements

SPONSOR:

To be identified with counsel

INDUSTRY ACTION

September 26, 1989

Three cities have been targeted for this project. They all have local restaurant restrictions which are stricter than the state-wide statute. The state statute mandates only that smoking/non-smoking areas be established in restaurants seating 75 or more patrons. The targeted cities affect smaller restaurants.

Members of the restaurant community have been approached to urge passage of new local ordinances in conformity with the state statute. Actual passage of such liberalizing ordinances is unlikely. However, anti-tobacco forces will have to expend time and energy to defend against the new ordinance.

Additional cities may be included in the project pending the outcome of an analysis of the effort in these original three cities.

RESOURCES NEEDED

YES/NO

DATE NEEDED

ECONOMIC ANALYSIS/FACTSHEET?

YES

12/1/89

In each of the identified cities it will be necessary to develop a fact sheet to respond to local variations. Some of the information in each of these documents will be the same. However, an understanding of the local environment is essential. This fact sheet should identify the impact of stricter regulations on the restaurants in question and the employees of the establishments.

LEGAL MEMORANDUM?

NO

It is unlikely that a legal presentation will have any impact on the local councilors. In reality, most of these laws have been in place for a number of years and there has been little impact and no legal ramifications.

EXPERT WITNESSES?

YES

12/31/89

IAQ presentations to local officials as deemed appropriate. Most likely presenters are Dr. Larry Holcomb, on the properties of ETS, and ACVA representatives, on the true composition of indoor air pollution. These people have been successful when used in this fashion in the past.

COALITION ALLIES?

YES

4th Qtr 1989

The Massachusetts Restaurant Association and local restaurant owners/managers, possibly supported by the local chamber of commerce, will lead this effort. The function of the Institute will be limited to resources and organizational activities.

TI GRASSROOTS MOBILIZATION?

YES

1st & 2nd Qtrs 1990

It will be necessary to motivate a variety of consumer and business groups during the course of this effort. However, the industry's resources will only be used to mobilize members of the restaurant community and assist local restaurateurs to motivate their customers. Direct tobacco contact with this effort would have a negative impact on its ultimate outcome.

COMPANY RESOURCES?

YES

1st & 2nd Qtrs 1990

It may be beneficial to have access to the companies' smoker mailing lists to develop letters and calls to local officials. However, direct contact with these individuals should be through local restaurateurs or chambers of commerce; not the cigarette manufacturers.

PUBLIC AFFAIRS/MEDIA RESOURCES?

YES

2nd Qtr 1990

It would be helpful to have the Institute's public affairs organization assist the local businesspeople to develop and coordinate a media campaign.

ADDITIONAL NEEDS?

To Be Determined