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# Region 1—New England

STATE FEB 1 1988

# LEGISLATIVE Update

The Tobacco Institute

January 29, 1988

Washington, DC

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 \* LEGISLATIVE UPDATE Begins 1988 Distribution \*  
 \* \*  
 \* This will begin the third year of distribution of the \*  
 \* Region I - New England LEGISLATIVE Update. The purpose \*  
 \* of the Update is to provide you with a periodic review of \*  
 \* legislative events affecting the tobacco industry and its \*  
 \* allies. The primary focus is the six New England states. \*  
 \* However, anti-tobacco activities at the federal level and \*  
 \* in selected states outside New England will also be reviewed. \*  
 \* Occasionally the Update will highlight the work done by \*  
 \* industry activists and their allies. \*  
 \* \*  
 \* The Update will occasionally provide "special reports" on \*  
 \* topics of particular concern or interest. If there is a \*  
 \* piece of legislation or issue which you feel needs \*  
 \* additional coverage, please let me know and we will try to \*  
 \* devote some extra space to it. \*  
 \* \*  
 \* I am looking forward to renewing this expanded communication \*  
 \* effort. I hope it helps to keep you up-to-date on legislative \*  
 \* and other events affecting the industry. \*  
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## 1987 REVIEW

1987 was one of the most difficult years to date for the tobacco industry in New England and across the country. At all levels of government, the attack on the industry and the prerogatives of those who choose to enjoy tobacco products was unprecedented. However, the efforts of industry lobbyists, activists and allies was more than equal to the task.

At the federal level, 95 separate measures with potentially negative impact on the industry were considered during the year. Of these, only five were enacted. None of the five, however, passed as separate measures. Two of the five had broad impact. The first, sponsored by Rep. Richard J. Durbin (D-Illinois-20), imposes a two year trial ban on smoking on all domestic airline flights of two hours or less. The second, sponsored by Rep. Robert J. Mrazek (D-New York-3) would eliminate federal funding for the Long Island Railroad if the Metropolitan Transportation Authority (MTA) refused to ban smoking on the line. (See related information in "Connecticut Topics".) They were added as amendments to the so called 1987 "Budget Reconciliation Package" and the "Continuing Resolution", respectively.

For more information contact Dennis Dyer, Regional Vice President, The Tobacco Institute, (617) 927-3990.

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A number of New England Congressmen either sponsored or cosponsored legislation of concern to the industry. The volume leader is first-term Massachusetts Congressman Chester Atkins (D-MA-5) with his name on 15 separate bills. However, the region's most vehement opponent continues to be Rhode Island Sen. John Chaffee (R-RI). Among other things, Senator continues to press for a doubling of the federal cigarette excise tax from \$.16 to \$.32. Thankfully, his colleagues in the Congress have yet to agree. Other sponsors of anti-tobacco measures include Rep. Edward Boland (D-MA-2), Rep. Silvio Conte (R-MA-11), Rep. Barney Frank (D-MA-4), Rep. Joseph Markey (D-MA-7), Rep. Nicholas Mavroules (D-MA-6), Rep. Joseph Moakley (D-MA-9), Rep. Jerry Studds (D-MA-10), and Sen. Edward Kennedy all of Massachusetts; Rep. Bruce Morrison (D-CT-3) of Connecticut; Rep. Claudine Schneider (R-RI-2) of Rhode Island; Rep. Olympia Snowe (R-ME-2) of Maine; and Sen. James Stafford of Vermont.

Here in New England, of the 109 separate anti-tobacco measures, only six bills with a negative impact on the industry were passed. In New Hampshire H 316-FN-A requiring the state to continue to rebate taxes paid on damaged product, was enacted. This is the first positive piece of legislation enacted in the region in recent years. Similarly, the Massachusetts Senate first passed and then rejected a measure offered by Sen. William MacLean (D-Fairhaven) affirming the right of the manufacturers to sample tobacco products. While the bill was ultimately defeated, it was an example of industry resolve not to give in to the anti-tobacco activists at any level.

The best publicized event was the passage of H 6397, the so called "Clean Indoor Air Act" in Massachusetts. Contrary to early press reports, the only new requirement imposed by the bill was on restaurants with 75 seats or more. The new legislation mandates them to have a 200 sq. ft. nonsmoking area - a far cry from the sweeping regulation reported.

This level of success allows the industry to continue with a better than 90% "kill ratio" during 1987 in one of the most anti tobacco regions in the country.

Local issues continue to hit the news around New England this past year. In Westport, Connecticut a coalition of restaurateurs and local business people, led by Stanley Seligson, S & S Tobacco, Horst Antosch, Le Cle D'Or, Brendan Donohue, Chez Pierre, and Carol Way, Westport Chamber of Commerce, worked to soundly defeat the first local restaurant/workplace ordinance in the state's history. The acrimonious public and private debate surrounding the battle may have contributed to ordinance sponsor, Representative Town Meeting member Adam Stolpen's, defeat in the November elections. Meanwhile, many of the State's local school boards addressed the question of smoking in elementary and secondary schools. Some local board's actions met with teachers' union opposition when they attempted to extend prohibitions, meant for students, to the faculty.

In Massachusetts the anti-tobacco activists had some success this year expanding local restaurant restrictions, particularly in the far western part of the state. However, in Waltham and Hyannis local coalitions, led by Ted Manning, Waltham/West Suburban Chamber of Commerce and Tony Viola, Hyannis Chamber of Commerce, turned expected defeats into spectacular victories.

Finally, the Massachusetts Bay Transportation Authority (MBTA) continued to present problems for the industry during 1987. This year the MBTA began a policy of eliminating tobacco sales from all of its leased property. However, industry projections of lost revenues as a result of the 1986 MBTA ban on tobacco advertising came true as the system's advertising revenues were cut in half during the first year of the ban. Both of these issues are likely to be addressed during 1988.

## NATIONAL TOPICS

Of the 55 major anti-tobacco bills pending at the federal level for 1988, the issues of primary concern will be advertising restrictions and taxation. The bills to watch will be the advertising proposals of Reps. Mike Synar (D-OK-2) and Bob Whittaker (R-KS-5). Notwithstanding the tax bill proposed by Sen. John Chaffee, tax increase action is likely to come as a part of the "1988 Reconciliation Package". This could occur just prior to the Congressional recess for the conventions and elections.

Once again the "self-extinguishing" issue is smoldering in Washington. Rep. Joseph Moakley (D-MA-9) has introduced HR 3440, the Fire Safe Cigarette Act. However, the requirements go well beyond the recommendations of the Technical Study Group on Cigarette and Little Cigar Fire Safety. It is likely that some form of this bill will be given serious consideration this year in the Congress.

## REGIONAL TOPICS

The capacity of the Tobacco Institute to defend the industry in New England has been enhanced by the addition of E. Barclay Jackson, Esq. to the Region I staff. Ms. Jackson assumed her duties as Regional Director on June 15. She brings not only her legal background, but legislative experience to the industry's program in the Region.

## CONNECTICUT TOPICS

The Connecticut Legislature convenes on 2/3. At present only one piece of tobacco-related legislation has been detected among the numerous "pre-files". LCO No. 121, AN ACT Requiring Divestiture by State of Investments in Tobacco Companies, introduced by Rep. Frank O'Neill (R-98) would force the state to divest itself of all stock in tobacco companies. This is the first time that this type of legislation has been seen anywhere in the country, continuing New England's dubious anti-tobacco notoriety. It is likely that additional measures will be introduced before the opening of the legislature.

On 1/22 the New York Metropolitan Transportation Authority (MTA) imposed a ban on smoking on all commuter trains on the Long Island Railroad and Metro-North lines. One segment of Metro-North, the New Haven line, serves commuters in Connecticut. The action came in response to the "Mrazek Amendment" enacted at the federal level (See 1987 Review). The MTA ignored the action of the Metro-North Operating Committee that earlier voted unanimously to retain single smoking cars on their trains, as well as opposition from the State of Connecticut. It is possible that further action will result from this capricious action by the MTA.

## MAINE TOPICS

The Legislative Council rejected five of six anti-tobacco bills submitted for consideration during the 1988 session. Each of the rejected measures, L.R. 3886, AN ACT to Ban Smoking on All Intrastate Mass Transportation; L.R. 3909, AN ACT to Restrict Smoking in Elementary and Public Schools; L.R. 3593, AN ACT to Require Designated Smoking Areas in Publicly Owned Buildings; L.R. 4083, AN ACT to Prohibit Smoking on In-State Flights; and L.R. 4212, AN ACT to Extend the Smoking Ban to

Correctional Facilities were the work of the Maine Coalition on Smoking or Health. The Council, made up of the leadership of both parties in both houses of the Legislature, must approve introductions during the second year of the legislative session. Only L.R. 3852, AN ACT to Establish a Study Commission on Smoke-Free Schools, was deemed appropriate for discussion during 1988. The tobacco industry has long held that the use of its products is an adult custom not appropriate for children. Therefore, this measure in its present form is of minimal interest to the industry.

### MASSACHUSETTS TOPICS

After adjourning its 1987 session during the late night of 1/5, the Massachusetts Legislature convened its 1988 session on the morning of 1/6. It is likely that all of the anti-tobacco legislation introduced during the 1987 session will be refiled for 1988. While the combined anti-tobacco efforts of GASP and the State's Department of Public Health enjoyed some well-publicized, if minor, successes during the final days of 1987, they were clearly dissatisfied by their poor overall showing at the Legislature.

The focus for the 1988 session is likely to be on workplace smoking, advertising and sales restrictions, including a ban on vending machine sales. There may also be considerable pressure placed on anti-tobacco activities at the local level. Here, too, the focus will be workplace restrictions and sampling bans. Our success at the local level continues to hinge on our ability to identify local introductions as quickly as possible. Allies at the local level are numerous, but it is difficult to reverse even preliminary action once it has occurred.

### NEW HAMPSHIRE TOPICS

The New Hampshire Legislature convened on 1/6. One of its first acts was to approve the House Children, Youth and Elderly Affairs Committee's "inexpedient to Legislate" Report on H 340-FN-A, imposing and earmarking for child-care services a \$.01 increase in the cigarette excise tax. The measure was a carry-over from the 1987 session.

New introductions include LSR H 2008, AN ACT Relative to smoking in the workplace, sponsored by Rep. Eric Lindblade (R-Sullivan-5); HB 1166 prefiled as LSR H 2125, AN ACT Relative to smoking in the workplace, sponsored by Reps. Charles Bass (R-Hillsborough-7) and Eric Lindblade (R-Sullivan-5); LSR H 2708, AN ACT Relative to the tobacco tax, sponsored by Rep. William Desrosiers (R-Hillsborough-43); LSR S 2332, AN ACT Relative to indoor air quality, sponsored by Sen. Elaine Krasker (D-24); and SB 269-FN, AN ACT Relative to indoor air quality in certain state buildings, sponsored by Sen. Elaine Krasker and Rep. Elizabeth Greene (R-Rockingham-18).

### RHODE ISLAND TOPICS

In a rare occurrence, the Rhode Island Legislature, which convened on 1/5, has no new anti-tobacco legislation pre-filed for the 1988 session. Only one measure of potential interest, H 5504, carried over from 1988. This bill further regulates sales to minors and is not opposed by the industry in its present form. It is unlikely that this condition will continue for the duration of the session. However, it is a welcome respite from 1987 when ten separate measures were seen in this the smallest of the New England states.

## VERMONT TOPICS

The Vermont Legislature convened on 1/5. To date three new measures are set for consideration by the members of the Legislature. They are H 505, AN ACT Relating to Nonsmoking Areas at Bingo Games, sponsored by Rep. Norman "Joe" Reed (D-Windsor-1-2); H 557, AN ACT Relating to the Free Distribution of Tobacco Products, sponsored by Rep. Toby Young (D-Windham-1); and H 661, AN ACT Relating to Tobacco and Tobacco Products, sponsored by Reps. Micque Glitman (D-Chittenden-7-3), Mary Evelt (D-Chittenden-7-1), Vi Luginbuhl (R-Chittenden-6-2), Margaret Martin (D-Addison-4-2), and Toby Young (D-Windham-1). One carry-over bill, H 399, AN ACT Relating to Secondary School Smoking Policy, Tobacco Use Education and Sale of Tobacco to Minors will also be considered.

In a somewhat unexpected move, the House Education Committee deleted much of the extraneous anti-tobacco rhetoric from H 399 and sent it to the house Floor on 1/22. The bill, which in its final form requires schools to have a smoking policy, met with extremely heavy spontaneous opposition on the House Floor. Many members, led by Rep. Bob Harris (D-Windsor-3) questioned the necessity of the proposal, suggesting that "enough was enough" with regard to tobacco restrictions.

Preliminary discussions were held by the House Health and Welfare Committee on 1/26 on H 505, H 557 and H 661. Opposition testimony was offered by Dan Pudvah, Executive Director, VT Lodging and Restaurant Association, Karen Kent, Executive V.P., VT Retail Merchants Association, and James Harrison, Executive V.P., VT Retail Grocers Association. Our thanks for their continued support. Future hearings are likely to include opposition from the state tobacco wholesalers and vendors. No action was taken.

## ALERT LOG

During 1988 the "Alert Log" will continue as a regular section of the Update. Each week a list of the grassroots Legislative Alerts will be provided in this space. It will note anticipated as well as ongoing alerts. This space will not be used to request grassroots action, only to inform you of the existence of a formal Legislative Alert or the intent to develop one in the near future. If you have any questions about anything appearing in this section, please call the TI Region I office at (617) 927-3990.

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\* Included in this first issue is the final index of all 1987 \*  
\* introduced legislation in the six New England states. The \*  
\* 1988 index will be provided to you on a monthly basis, \*  
\* beginning with 2/5 LEGISLATIVE Update. \*  
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## PEOPLE

Thanks to Chuck Chapleau, Quebec Distributing, Rutland, VT for his concern and help with VT legislation. Good luck to Tom Littleton, Executive Director, Massachusetts Candy and Tobacco Distribution Association, as he enters his second year of operation. Thanks to Mike Crespi, R. J. Reynolds, Springfield, MA for his call alerting us to Vermont legislative activities.

The Tobacco Institute named its grassroots volunteer award recipients for 1987. The following people have been cited for outstanding service to the industry:

Tobacco Industry Outstanding Legislative Activists of 1987

Connecticut	Paul Golden, Commuters for Fair Treatment
Maine	Charles Canning, Pine State Candy & Tobacco
Massachusetts	Theodore Manning, Waltham/West Suburban Chamber of Commerce
New Hampshire	John Dumais, New Hampshire Retail Grocers Assoc.
Rhode Island	David Balfour, Rhode Island Hospitality Assoc.
Vermont	Chris Barbieri, Vermont Chamber of Commerce

Tobacco Industry Distinguished Legislative Activists of 1987

Connecticut	Stanley Seligson, S & S Tobacco & Candy Co. Horst Antocsh, La Cle D'Or, Westport Brendan Donahue, Chez Pierre, Westport Artie Glaebberman, Philip Morris, USA Carroll Hughes, Connecticut Restaurant Assoc.
Maine	Ronald Donovan, Donovan & Donovan Donald Oliver, Oliver Vending & Music Systems
Massachusetts	Jack Kerner, Melo-Tone Vending, Inc. Anthony Viola, Hyannis Chamber of Commerce William Catania, Hearth 'n Kettle, Hyannis Lou Nocera, The Chateau Restaurant, Waltham
New Hampshire	Richard Bertrand, New Hampshire Tobacco Corp.
Vermont	Peter Foote, Associated Industries of VT Daniel Pudvah, VT Hospitality & Travel Assoc.

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\* Special Action Award \*  
\* \*  
\* A tobacco industry "Special Action Award" has been pre- \*  
\* sented to John Boltz, Regional Manager, Public Affairs, \*  
\* Philip Morris, USA for his constant and innovative support \*  
\* of the industry's legislative program during 1987. \*  
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Each of the above legislative activists will be honored at ceremonies in their home states during March. Without the grassroots support of people like these, our industry's program in New England would not have been as successful as it was.

1987 LEGISLATIVE INDEX

<u>BILL #</u>	<u>ISSUE</u>	<u>COMMITTEE</u>
<u>CONNECTICUT -</u>		
H 5085	Workplace Includes: H 5083, H 5349, H 5529 - workplace	ENACTED
H 5099	Sampling - minors	DEFEATED
H 5101	Restrictions - schools	DEFEATED
H 5102	Taxation - 1% earmarking	DEFEATED
H 5151	Restrictions - restaurants	DEFEATED
H 5319	Sales - vending machines	DEFEATED
H 5527	Restrictions - schools	ENACTED
H 5531	Sales - minors	DEFEATED
H 5701	Restrictions - day care facilities	DEFEATED
H 6344	Restrictions - schools	DEFEATED
H 6802	Workplace	DEFEATED
H 6927	Sales, sampling - minors	DEFEATED
S 233	Restrictions - restaurants	DEFEATED
S 242	Restrictions - day care facilities	DEFEATED
S 451	Study - sales, sampling - minors	ENACTED
S 609	Restrictions - restaurants	DEFEATED
S 1035	Restrictions - restaurants	DEFEATED
<u>MAINE -</u>		
L.O. 81	Sales - minors	DEFEATED
L.O. 353	Restrictions - public buildings	ENACTED
L.O. 356	Adv - member company sponsorship	DEFEATED
L.O. 414	Tobacco education program	DEFEATED
L.O. 585	Sampling - registration of activities	DEFEATED
L.O. 666	Misc - Health Policy Council creation	ENACTED
L.O. 789	Restrictions - restaurants	DEFEATED
L.O. 897	Restaurant policy notice	DEFEATED
L.O. 1391	Sales - vending machines - minors Includes: L.O. 204	ENACTED
L.O. 1600	Restaurant policy notice Includes: L.O. 296	ENACTED
<u>MASSACHUSETTS -</u>		
H 195	Warning Labels & Sampling - smokeless	DEFEATED
H 578	Insurance - tobacco addiction benefits	DEFEATED
H 1251	Taxation - cigarette rolling paper 5%	DEFEATED
H 3289	Sales - health care facilities	DEFEATED
H 3400	Taxation - 4-cent (w/ earmarking)	DEFEATED
H 3697	Restrictions - restaurants, pub places Includes: H 317, H 2750, H 3288 - smoking restriction	ENACTED
H 4064	Insurance	DEFEATED
H 4699	Workplace	DEFEATED
H 4804	Taxation - 4-cent (w/ earmarking)	DEFEATED
H 5002	Misc - wholesaler administration	DEFEATED
H 5018	Public employee discrimination Includes: H 1746 - employee discrim	ENACTED
H 5393	Restrictions - schools Includes: H 1131, S 1698 - minors restricts	ENACTED
H 5605	Restrictions - pub transp penalties Includes: S 1105 - bus restrictions	ENACTED
S 657	Insurance	DEFEATED
S 1441	Misc taxation - local surcharges	DEFEATED
S 1474	Misc taxation - stamp compens increase	DEFEATED

S 1513	Miscellaneous - MBTA funding	DEFEATED
S 1544	Restrictions - Pub Transp penalties	DEFEATED
S 1550	Resolution - Consumer Product Safety Act	ENACTED
S 1551	Resolution - Hazardous Subst Control Act	ENACTED
S 1552	Resolution - Ingredient list	ENACTED
S 1553	Resolution - airline smoking ban	ENACTED
S 1554	Resolution - Toxic Subst Control Act	ENACTED
S 1564	Insurance	DEFEATED
S 1612	Miscellaneous - consumer pricing	ENACTED

Study Bills

H 5320	Self-extinguishing Study Includes: H 1668, H 3780, S 1570	DEFEATED
H 5487	Taxation Study Includes: S 1445 - local option taxes	DEFEATED
H 5494	Taxation Study Includes: S 1446 - 8-cent earmarked tax S 1459 - gen'l tax commission	DEFEATED
H 5534	Commerce & Labor Study Includes: H 890 - gen'l retail pricing H 1115 - ingredient disclosure H 3256 - vending sales H 4818, H 4822 - sampling	DEFEATED
S 1530	Miscellaneous - gen'l study of trends	DEFEATED
S 1800	Commerce & Labor Advertising Study bill Includes: H 3255 - billboard adv H 3257 - taxicab adv	DEFEATED

NEW HAMPSHIRE -

H 86	Restrictions - Restaurants	DEFEATED
H 316-FN-A	Taxation - stamp refunds	ENACTED
H 317-FN-A	Taxation - OTP incr, cigarette rate chng	DEFEATED
H 340-FN-A	Taxation - \$.01 earmarking	CARRY-OVER TO 1988
H 419-FN	Workplace, public places	DEFEATED
H 471-FN	Restrictions - schools	DEFEATED
S 15	Restrictions - eating establishments	DEFEATED
S 207-FN	Taxation - earmarking, no increase	DEFEATED
S 218	Restrictions - restaurants	ENACTED
LSR H 572	Taxation - tax stamps	DEFEATED
LSR H 932	Taxation - smokeless tobacco	DEFEATED
LSR S 386	Taxation - smokeless tobacco	DEFEATED

RHODE ISLAND -

H 5504	Sales - minors	DEFEATED
H 5508	Restrictions - restaurants	DEFEATED
H 5660	Restrictions - pub places, restaurants	DEFEATED
H 5666	Sales - minors	DEFEATED
H 5688	Sales - minors (smokeless)	DEFEATED
H 5829	Taxation - stamp rates	ENACTED
H 5884	Sales - minors (smokeless)	ENACTED
H 6035	Restrictions - restaurants	DEFEATED
S 293	Smokeless warning labels	DEFEATED
S 560	Taxation - stamp rates	DEFEATED

VERMONT -

H 86	Workplace	ENACTED
H 189	Taxation - litter	DEFEATED
H 399	Sales & sampling - minors, tobacco education, restrictions - schools	DEFEATED

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## TELECOPIER MESSAGE

(617) 927-3990

TO: Walter Woodson

FROM: Dennis Dyer

DATE/TIME: 1/28 4:15 # OF PAGES FOLLOWING: 7

DESCRIPTION: Region 1 Legislative Update

If you do not receive any of the pages properly, please call Susie at (617) 927-3990 as soon as possible. Thank you.

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168 → Wholesalers get monthly version

1,000 → All TAN (?) get quarterly version

(cont)??

SAPC  
COS - DM -  
SMT Mgr.  
1 Key wholesalers  
all 100

Questions?

Dennis