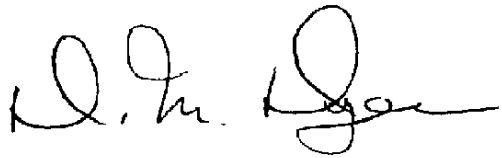


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MEMORANDUM

July 19, 1989

TO: Paul J. Emrick
FROM: Dennis M. Dyer 
RE: Region I -- Pro-Active Plan Update

Since 1988 the Institute has attempted to document and increase its efforts to enact legislation with a positive impact on the industry's ability to do business.

Here in New England those efforts have ranged from advertising to tax issues. This memorandum will provide you with a review of our 1989 efforts and an outline for our program during the second half of the year.

Legislation

The following "pro-active" measures were introduced during 1989.

<u>State</u>	<u>Bill # (Issue)</u>	<u>Action</u>
CT	H 6050 (Indoor Air Quality)	Defeated
	H 7212 (MTA Smoking Car)	Defeated
ME	L.D. 604 (Smoking Areas in Public Buildings)	Defeated
MA	H 2771 (AFL-CIO Indoor Air Quality)	Active
	S 99 (Right to Sample)	Active
	S 1596' (MBTA Advertising)	Active

'Text of S 1596 is part of H 6150 (budget) on Governor's desk.

VT	H 98 (Workplace)	Carryover
	H 177 (Workplace)	Carryover
	S 14 (Workplace)	Carryover
	Local Tax (Burlington Charter)	Withdrawn
	Local Tax (Municipal Authority)	Withdrawn

Analysis

Connecticut

One house of the Connecticut Legislature, for the second year in a row, adopted legislation to require the Metropolitan Transportation Authority (MTA) to reinstate smoking cars on their commuter trains coming into the state. During the 1988 session, the bill passed the Senate and was held on the House calendar by then Speaker Irving Stolberg until mandatory adjournment. This year the bill was adopted as an amendment to H 7212, restricting smoking on school grounds, by a Stolbergless House. However, it failed to receive Senate consideration prior to mandatory adjournment. While this effort has not been successful in its primary intent, it has succeeded in confusing the anti-tobacco activists. Much of their efforts in the final days of the session were focused on the defeat of the MTA bill rather than the enactment of one of the 29 anti-tobacco measures on the Legislature's calendar. Since the raising of the MTA issue in 1988, no "health-related" public smoking legislation has even moved out of committee.

Indoor Air Quality (IAQ) legislation, H 6050, received initial review during 1989. It will be reintroduced in 1990. At that time the measure will have the backing of organized labor. If possible, that measure will be used to limit the impact of existing public smoking laws. The immediate potential is to provide exemptions for businesses and public places that are in compliance with ASHRAE indoor air quality standards.

Maine

In Maine, the measure requiring the establishment of smoking areas in public buildings was defeated in committee. However, the debate surrounding the issue seemed to have an impact on the willingness

of the committee to expand existing workplace and public building laws. The inability of the anti-tobacco activists to respond fairly to a question of equal access to public buildings was viewed very negatively by some members of the legislature.

IAQ legislation, enacted in 1988, requiring standards in public buildings maybe expanded during the 1990 session of the legislature. Again, this may present a vehicle for the modification of existing anti-tobacco laws.

Massachusetts

Massachusetts represents the most successful efforts to date. In three major areas of legislative action bills have either been enacted or under serious consideration by the Legislature. In the area of advertising, H 5331, H 1505 and S 1596 would require the Massachusetts Bay Transportation Authority (MBTA) to "maximize its non-transportation revenues from all sources." The effect of these bills would be the repeal of the MBTA ban on tobacco advertising enacted in 1984. The text of these bills was included as an "outside section" of the recently enacted budget. To my knowledge, this is the first time that the tobacco industry has successfully overturned an advertising prohibition.

Still under active consideration is H 2771, the AFL-CIO sponsored IAQ bill. The measure is currently awaiting redrafting in the Joint Commerce and Labor Committee. If adopted, it is possible that the bill will preclude local action on IAQ issues, including environmental tobacco smoke. Similarly, it would place control of the issue in the hands of the Department of Labor and Industries, removing the current prerogatives of the Department of Public Health. The measure will receive serious consideration when the Legislature returns from summer recess.

For the third year, legislation "affirming the right of the manufacturer to sample tobacco products" has been introduced in the Senate. As in previous years, the likelihood that the measure will be enacted is slim. However, the anti-tobacco activists have had to focus their attention on the defeat of this bill rather than the passage of their proposed bans on advertising and sampling.

A separate issue in Massachusetts deserves separate consideration -- the rollback of existing local ordinances restricting smoking in restaurants. This issue is dealt with in Attachment "A" to this memorandum.

Vermont

As a result of industry action and mounting worker pressure, three separate measures reducing the ability of anti-smokers to dictate the smoking policy of workplaces in the state were introduced. None of the measures advanced out of committee, but they will

carryover to the 1990 session. It is likely that they will be given serious consideration next year.

In a separate matter, the attempts of the industry to act as a catalyst to bring together members of the retail and wholesale trades with members of the Legislature and the Department of Public Health on the issue of "sales to minors" seems to have borne fruit. No legislation restricting the ability of the industry to sample or advertise its products were introduced during this past session. This is in sharp contrast to 1988 when numerous bills prohibiting sampling, advertising and promotional activities were introduced and given serious consideration. Our sincere efforts in this area have not only eliminated this area on legislative attack, but has enhanced the industry's credibility with members of the Legislature, including those on the House Health and Welfare Committee. This will be of benefit to us in future debates on other unrelated tobacco issues coming before this committee. In contrast, the members of the anti-tobacco movement have suffered diminished credibility as a result of their refusal to participate in the effort with the industry and the Legislature. This too will be a benefit in future years.

Additional Activities

In addition to these legislative matters, the Institute has been involved in a number of "pro-active" efforts outside of the state capitals. These include our labor program and our localities program, both of which have met with significant successes.

In our localities program, it was our intention to identify cities and towns, based on prior histories, where we could expect introduction of workplace smoking restriction ordinances during 1989. Members of our scientific witness program accompanied by local counsel sought one-on-one opportunities to discuss the ETS/IAQ issue with either mayors or members of the city councils. Our goals were two. First, we hoped that our educational effort would result in reducing the number of local introductions during 1989. Second, we hoped that the effort would create situations in which the industry would be given ample notice if workplace restrictions were going to be debated in a particular community. The effort seems to have had some impact. No community in the Commonwealth has seriously considered a workplace smoking restriction ordinance during the first half of 1989. Similarly, we have been alerted to one instance where a measure was being prepared, and we were able to stop the introduction.

To judge the impact of our labor efforts, one has only to read the news articles surrounding the defeat of H 5315, requiring smoking policies in workplaces. Because of the preliminary work done by local labor counsel at the 1987 state AFL-CIO convention, where resolutions opposing advertising restrictions, opposing excise tax increases and supporting IAQ issues, organized labor was able to support industry positions on issues as diverse as sampling,

billboard advertising and taxes.

Conclusion

Pro-active programs in Region 1 are moving along well. There is opportunity for additional activities. These could include expanded activities on the local and labor fronts. There is an opportunity to include the hiring discrimination issue in the AFL-CIO convention agenda. This would allow us to introduce hiring discrimination legislation during the 1990 session of the legislature. Similarly, there is some real opportunity to develop new coalitions in the area of taxes. This will come only if we adjust our thinking on the issue and open up the possibility of supporting the introduction of progressive tax plans.

In essence, our legislative program in the region has been relatively successful during the first half of the year. With most of the legislatures in recess for the remainder of the year, there is little chance of additional damage in the region. The sole exception, as usual, is the Commonwealth of Massachusetts. The deepening fiscal crisis in the state is likely to produce considerable pressure for excise and other consumer and user tax increases during the Fall. It could be that the \$.04 increase proposed by the Governor looks good by November. The development of a "pro-active" tax program may be able to have an impact on this anticipated pressure point.

If you have any questions about specific parts of our "pro-active" efforts, please don't hesitate to give me a call.

cc: E. B. Jackson