

CONFIDENTIAL

TOBACCO ISSUES IN THE NORTHEAST:

CONFRONTING THE CHALLENGES PRESENTED

BY THE

MASSACHUSETTS TAX INITIATIVE

**STATE ACTIVITIES DIVISION
THE TOBACCO INSTITUTE
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OVERVIEW

The program is based on three strategies designed to address the legislative and local government situation in Northeastern states resulting from voter approval of the 25-cent tobacco tax initiative in Massachusetts. The new cigarette and smokeless taxes take effect January 1, 1993, and must be deposited in a segregated Health Protection Fund.

The three strategies are as follows:

1. Encourage proper disbursement of the initiative revenues for legitimate educational goals. Limit the use of the funds for broad grants to local communities for the enactment of unfair restrictive sales and public smoking ordinances; and eliminate or minimize funding for unwarranted anti-tobacco advertising campaigns.
2. Implement a comprehensive, regional legislative program to manage the impact of the new Massachusetts tax rate (51 cents per pack) on the other Northeastern states. Discourage tax increases in neighboring/nearby states and discourage tax increases from being used for dedicated purposes such as "health promotion" or local anti-smoking campaigns.
3. Put in place a program to address increased local activity by anti-smoking coalitions as a result of passage of the Massachusetts tobacco tax initiative. Ensure that initiative funds in Massachusetts are used in a reasonable fashion and not for such matters as the adoption of sales and public smoking restrictions. Discourage the adoption of copycat anti-tobacco legislative proposals in surrounding states.

For successful implementation, the industry must develop an even more sophisticated communications network to link T.I. staff and member companies for regular assessment of necessary resources and to update participants on the progress of various programs. Budgetary needs for the effective implementation of the plan will come in large measure from existing T.I. resources and from reliance on existing member company programs.

STRATEGY #1

Encourage proper disbursement of the initiative revenues for legitimate educational goals. Limit the use of the funds for broad grants to local communities for the enactment of unfair restrictive sales and public smoking ordinances; and eliminate or minimize funding for unwarranted anti-tobacco advertising campaigns.

BACKGROUND SUMMARY

The anti-smoking coalition projects \$120 million a year will be gained by the 25-cent tax increase; our estimate is that only \$103 million will be added. The exact amount of increased revenues will not be known until the end of 1993. However, the Massachusetts budget process must be completed by July, so the state will be working with current 1993 revenue projections, which include a \$400-500 million state budget deficit.

GOALS AND TACTICS

1. Investigate and compile relevant information to lay the groundwork for arguments for the legislature to fully recognize the amount of money already being spent in Massachusetts for smoking prevention and education. The present amount of ASSIST money available in Massachusetts and how this money is being used by the State Department of Health is being analyzed. In addition, we will develop a comprehensive economic analysis of cigarette sales revenue losses and cross-border sales activity in the adjacent states to present -- formally and informally -- to key legislative leadership. This information also may be disseminated through a media program on the immediate economic impact felt by businesses and people as a result of the 25-cent increase.
 - a. Continue freedom of information requests on the present allocation and use of ASSIST funds in Massachusetts. Summarize this material for use by the industry team, selected allies and legislators involved in the budget process.
 - b. Identify a credible organization or university, to develop a detailed revenue impact analysis on retail sales losses in Massachusetts as a result of the 25-cent tax increase. Cross-border impact, related sales losses, and other relevant economic data suitable to use in discussions with key legislative leadership and allies will be included. This analysis will be used to define the projected amount within the Health Protection Fund. (This information will also be needed in presentations to other Northeastern state legislatures for Strategy #2.)

- c. With the aid of the industry's legislative consultants, T.I.'s economist and state budget consultants, prepare a comprehensive state budget proposal to support our position. The document will note the rationale for placing the majority of the \$100 million in youth education and other selected programs.
 - d. If appropriate, retain additional consultants to discuss the budget situation with Appropriations Committee members and other audiences. Someone well versed in state legislative matters would fill this role and a similar role in Strategy #3.
 - e. Implement a timetable for contacts with key leadership to discuss the above-mentioned studies and ASSIST funding.
 - f. Coordinate a media strategy for implementation during the legislative session. Offer counter-points and rebuttal, as well as proactive arguments in support of the allocation of funds.
 - g. Identify and report other state budget issues of importance in evaluating the needs of the state, competing interests, special interests, legislative strategies, and any other information necessary to execute our strategy.
2. Develop and implement a plan to address legislative appropriations from the Health Protection Fund. Appropriations should focus on discouraging smoking by youth, a concept which is consistent with the industry's youth programs and with the anti-smoking coalition's stated goals.

A major goal is to encourage the legislature to appropriate as much as possible of the \$100 million-plus of the Health Protection Fund to public schools, including smoking prevention programs. Such an approach should receive the support of the teachers unions and related education groups.

At this same time, we must make the legislature aware that the 25-cent increase will significantly impact the amount of revenues raised by the present 26-cent excise tax, which goes to the General Fund. The obvious decline from cross-border sales and the possible decline in sales due to higher prices will further deepen the state's deficit. Our goal is to encourage a maximum amount of tobacco revenue to the General Fund. We should build support for legislation that stabilizes revenues to be placed in the General Fund, making the Health Protection Fund absorb future decreases in revenues due to declining sales. In this way, the Health Protection Fund is likely to receive about \$103 million in the first year, rather than the \$120 million that the anti-smokers are currently suggesting.

- a. Prepare legislative language and supporting arguments for appropriating as much as possible of the \$100 million for school programs. Discuss primary and secondary options for legislative approach to encourage passage.
- b. Identify coalition allies who will support inclusion of this money for public education in schools and initiate a plan for activating their support. Potential allies include:
 - . State Board of Education
 - . Teachers unions
 - . State Teachers Association
 - . School Nurses Association
 - . Massachusetts Municipal Association
 - . Associated Industries of Massachusetts (AIM)
 - . High Tech Council
 - . Chambers of Commerce
 - . League of Women Voters
- c. Assist education-related allies in developing legislation to create advertising programs for public school systems on youth smoking and health in combination with other in-school drug and alcohol programs.
- d. Retain a consultant in the public school sector to provide reports of local city and town budget problems with funding school systems. Share this information with legislative leadership, as well as legislators whose districts are experiencing budget problems. The consultant will provide support for the media plan as necessary.
- e. Provide information from California Prop 99 funding for public education in schools in order to anticipate the State Department of Health's arguments for their appropriations requests. As necessary, bring in California experts to share their Prop 99 experiences. Anticipate whether the Massachusetts Department of Health will attempt to use their counterparts from California, and limit their involvement.
- f. Work with the retail allies in support of sales-to-minors education in schools. Make retailers aware of the potential ramifications of this money going to unfair, anti-tobacco grants.
- g. Continue to analyze the tactics of the anti-smoking coalition in its attempts to force the legislature to put money into media. Ascertain how they will utilize the media and direct confrontation with the industry and legislators, and prepare both defensive and proactive plans for industry and allies.

3. Identify other programs for allocation of any remaining available funds. The goal is to eliminate monies for unfair anti-tobacco media advertising. This can also be accomplished by ensuring that advertising funds be directed through youth educational programs associated with the public schools. Grant programs aimed at developing an infrastructure to influence local governments must also be discouraged and deflected to other areas of the budget.

To meet the challenge our team is evaluating the state budget to identify those areas suitable for receipt of the initiative tax monies. Additional coalition allies are likely to be identified as a result of our budget analysis. Again, the goal is to channel funds to appropriate uses, leaving the state Department of Health with little or no money for unrestricted distribution to the local health boards.

- a. Assess the present fiscal needs of the state and prepare a list of uses for the funds remaining after the school program appropriations. The following list of worthy uses and potential allies will be expanded as appropriate:
 - . Add coverage for prenatal, well-baby and pediatric care to current Medicaid funding. Allies: hospitals and public health organizations, business councils and general public.
 - . Pay for stress management programs in state correctional facilities in lieu of imposing total smoking bans in jails and prisons. Allies: State Corrections Department, Prison Guards Union.
 - . Fund public and private counseling services for stress management programs associated with workplaces. Allies: Association of State Guidance Counselors, State Association of Psychologists.
 - . Develop a program for local fire departments to install and provide batteries for smoke detectors in every residence in their districts. Allies: Fire Chiefs, Firefighters Union, smoke detector manufacturers.
 - . Fund health check-ups for homeless persons and counseling on state health care programs and outreach services. Allies: Association for the Homeless, churches, social service agencies.
 - . Fund a legislative oversight committee to assure that waste and duplication of grants is avoided and that the intent of grants is served. Reference California as what not to allow. Allies: conservative legislators.

- . Fund a legislative oversight committee to review actions by local Boards of Health in creation and administration of public smoking regulations (if a state preemptive law does not pass this or the next legislative session). The review will include an economic impact analysis of all smoking bans. Allies: conservative legislators, business and hospitality associations.
 - . Create an economic development grant for retailers and distributors to offset sales lost as a result of the tax. Allies: retailers and distributors.
 - . Require local departments of health to compile and distribute an inventory of government-funded health programs in each community. Allies: social service agencies.
- b. Solicit support from the identified allies and groups to support the final list of dedicated grant proposals.
 - c. Prepare a contingency strategy to encourage passage of a statewide preemptive sales and smoking law (Strategy #3) within the appropriations process. Include prohibitions on use of initiative funds by the anti-smoking groups for lobbying purposes. Prepare a ballot initiative if necessary.
4. Encourage legislative efforts to ensure that "charitable" organizations such as the state lung association are fairly and accurately reporting on the manner in which their funds are being spent. This effort, which is aimed at putting more "sunshine" into the operations of certain charitable groups, may encourage these groups to spend a significant portion of their time on this matter and not unfair anti-tobacco proposals.
 - Prepare strategy for introduction of legislation to require disclosure of activities by 501(c)(3) organizations and organizations receiving state tax funding.

The strategy on the appropriations process also supports the industry's comprehensive plan to adopt statewide preemption language regarding sales to minors and smoking restrictions (see Strategy #3). Exposing the amount of money and the sometimes frivolous way it is being spent by local anti-smoking coalitions, combined with economic data supporting the position that the business, retail and hospitality communities must be relieved of the patchwork system of local laws, should provide the impetus to pass state model legislation.

STRATEGY #2

Implement a comprehensive, regional legislative program to manage the impact of the new Massachusetts tax rate (51 cents per pack) on the other Northeastern states. Discourage tax increases in neighboring/nearby states and discourage tax increases from being used for dedicated purposes such as "health promotion" or local anti-smoking campaigns.

BACKGROUND SUMMARY

Passage of the Massachusetts initiative will have a profound impact on the other New England and mid-Atlantic states, and may even set a new standard for tax increases throughout the country. Many of the Northeastern states are already considering raising their tobacco excise taxes because of budget deficits and the recessionary period the entire country has experienced. Leaders in the anti-tobacco movement may now use their Massachusetts success as a banner to promote dramatic tax increase proposals as part of a coordinated regional movement against the tobacco industry.

Keeping this a "tax" issue and not a "health" issue is the cornerstone of the industry's defense in the other Northeastern states. The industry must continue to fight tobacco tax increases within the context of the state's entire tax structure and budget outlook.

The strategy for each Northeastern state will include a combination of the following goals and tactics.

GOALS AND TACTICS

1. Encourage states to delay passage of tobacco tax increases until there is time to evaluate what impact their lower tax rates (compared to Massachusetts) may have through windfall cross-border activity.
2. If state legislators believe they must raise the tobacco excise tax, present arguments for phasing in the increase over several years rather than adopting one drastic increase. This will give us time to put out fires in any other states that continue to play with the rates each year rather than committing to a step-by-step increase.
3. For all states, obtain an in-depth economic study conducted by a credible firm or university of cigarette and tie-in retail sales in stores on both sides of the Massachusetts border. Demonstrate that sales in Massachusetts stores near border areas go down while sales in neighboring state retail stores go up, including sundry and secondary sale losses and gains (gas, alcohol, food). Where appropriate, include bootlegging from Indian reservations in the study.

The study should be updated on a monthly basis in order to provide timely data for legislators as they develop budget options in the first quarter of 1993. This study will be needed for all states, including Massachusetts.

4. Use the on-going cross-border study to promote a legislative rollback attempt in Massachusetts. This effort must be led by the retail community. Keep legislators in other Northeastern states aware of the tax backlash after the 25-cent increase.
5. Create or strengthen anti-tax coalitions in all states. Encourage support from organized labor, liberal and progressive anti-tax groups.
6. Support for activities of our traditional allies is more important than ever; there are other vital issues for which we need their help, such as preemption.
7. Work with the retailers and other allies to generate op-ed pieces and letters to the editor.
8. Work with consultants to analyze state tax structures and to identify more progressive means of revenue-raising.
9. Work with smokers' rights groups and other constituencies to prepare for legislative contacts.
10. Introduce "Sunshine Acts" requiring disclosure of activities by 501(c)(3) groups and organizations receiving public funds. Prepare a study of federal, state, local and private funds already supporting health promotion activities.

A state-by-state assessment of the regional impact of the Massachusetts increase and discussion of particular strategies and additional resources that may be required in each state may be found in ATTACHMENT A.

STRATEGY #3

Put in place a program to address increased local activity by anti-smoking coalitions as a result of passage of the Massachusetts tobacco tax initiative. Ensure that initiative funds in Massachusetts are used in a reasonable fashion and not for such matters as the adoption of sales and public smoking restrictions. Discourage the adoption of copycat anti-tobacco legislative proposals in surrounding states.

BACKGROUND SUMMARY

During 1992, Massachusetts was the only state in the Northeast targeted by anti-tobacco coalitions for a full-blown assault at the local level of government. The strategy was to use local boards of health as the vehicle for the adoption of anti-tobacco proposals. To date, no other state in the Northeast has used this approach. However, city and county councils in other Northeastern jurisdictions have entertained anti-tobacco proposals on such matters as advertising, counter-advertising, vending, and restaurant smoking restrictions.

With passage of the 25-cent initiative, we expect not only a significant increase in local activity in Massachusetts, but in most of the other Northeastern states as well. Maine, New Jersey, New York, and Rhode Island have ASSIST funds available and are building a foundation for programs at the local level. Anti-smokers in Vermont, New Hampshire, Connecticut, and possibly Pennsylvania, are likely to select key cities for advertising/retail sales and public smoking restrictions, using Massachusetts as a guide.

Specific approaches will vary. However, any anti-tobacco media messages from Massachusetts will be seen and read about in neighboring states. While the containment of irresponsible anti-tobacco media messages is a primary goal in Massachusetts, it seems likely that some will be aired. As a result, general media attention to local laws will increase.

Industry efforts must include close attention to the movement of all anti-tobacco funds. In Massachusetts, monies will now come from ASSIST grants and cigarette tax revenues. We will monitor anti-tobacco spending patterns to see how these two programs interplay with local chapters of the Cancer Society or other anti-smoking organizations in the Northeast. The influx of funds will strengthen anti-tobacco activities and require a well-organized response at the state and local levels by the industry and its allies.

The following goals and tactics will be used, as appropriate, throughout the Northeast. A state-by-state assessment and forecast for local anti-tobacco activity and a plan of action for countering such legislation may be found in ATTACHMENT B.

GOALS AND TACTICS

1. Conduct a meeting of the T.I. Region XI Vice President, Dolphin Group, Region I and II Vice Presidents, legislative consultants and Philip Morris/RJR Government Affairs managers to seek ideas, strategies, and concepts from California for the management of the local agenda in the Northeastern states.
2. Consider the addition of a political/public relations firm(s) in Northeastern states to manage the increased activity of local issues.
3. Consider the addition of personnel to the Marketing Freedom Coalition to assist with the coalition activities.
4. As needed, retain local legislative consultants in each state.
5. As possible, expand the New England Convenience Store Association's monitoring and key contact program in all New England states. Also, review and develop a reporting system within New York and New Jersey which targets the areas of the ASSIST grant.
6. Develop and promote smoking accommodation surveys and polling in cooperation with state and local restaurant associations in the eight states which are likely to consider smoking bans.
7. Identify other coalition allies and create programs to gain their support in opposing local government actions aimed at sales and public smoking proposals (examples: alcohol package stores, petroleum companies, coupon redemption companies).
8. Immediately implement an aggressive campaign to solicit support from the local chambers of commerce in each state, especially Massachusetts. (The 25-cent initiative funding will probably be used to target the chambers as in California.)
9. Develop a comprehensive approach to address public advertising restrictions in relation to the expected spillover of the New York City advertising ordinance. Seek to develop strong coalition support from national advertising groups, ACLU, labor, and outdoor advertising companies.
10. Continue and expand economic impact studies and papers to present to local government officials and allies in opposition to proposals that would restrict couponing, free-standing displays, and 2-for-1 promotions.

11. Develop a media plan to address industry concerns and to assist allies in responding to local government proposals. (Example: provide media training to convenience store personnel and develop a reporting system from T.I. Washington media department to provide a weekly list of inquiries received from media in cities in New England.)
12. Develop strategies in each state to prevent local boards of health from independently proposing and passing local ordinances without concurrence from city councils.
13. Develop a coordinated plan with member company community relations experts to encourage and develop better coalitions among retail store owners and groups, including minority business owners.
14. Where legal and appropriate, evaluate political campaign contributions to local elected officials in key areas.
15. Encourage member companies to create shoplifting or tamper proof free-standing displays for retail single pack sales. (This would defuse proposals to ban on-the-counter or free-standing displays by the anti-smoking groups.)
16. Encourage and promote cigarette machine lock-out devices as a vending industry position.
17. Develop more aggressive presentations and arguments on the detrimental nature of bans on promotional products and coupons.
18. Identify key cities to promote passage of model industry legislation using a special task force approach in those cities.
19. In all New England states, promote the passage of preemptive state legislation as well as secondary legislation to reduce or eliminate funding to anti-smoking coalitions for purposes of local legislative lobbying.
20. Continue to develop cooperative plans with member companies for the inclusion and participation of sales staff in working with local retailers.
21. Continue to make participation and assistance by state tobacco wholesalers at the local levels a priority prerequisite for assistance from T.I. and member companies.
22. Increase promotion of the "It's the Law" program in the Northeast, especially in response to organized sting operations. In addition, develop a distribution system for company programs on retail clerk training.

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23. At headquarters, the Tobacco Institute should expand its efforts to coordinate and review local government activities across the country, to facilitate communications and store information among regions on strategies, activities and programs created by our industry teams and the anti-smoking groups nationwide.
 24. Identify resources from member companies which currently are not participating in combating the local activities. At minimum, their sales staffs should have some role.
 25. Develop innovative methods of raising the awareness of the tobacco consumer with respect to local smoking bans, advertising bans, or other retail intrusions. (Examples: printing position statements of retailers on the impact of coupon bans, freedom of expression arguments on ad bans.)
 26. Recruit public speakers on civil libertarian issues using approach of government intrusion on business and have them speak at public hearings or to the media.

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ATTACHMENT A

STRATEGY #2

THE SITUATION IN OTHER NEW ENGLAND STATES

Connecticut - (current tax: 45 cents)

The six-cent difference between the new Massachusetts tax and Connecticut's rate may provide us with the best fiscal situation since the state will have a competitive advantage for the first time in some years. However, a tax increase may be proposed based on the anti-smoking coalitions' positions on "health" and youth purchasing.

The delay arguments may be possible. Whether the Governor and leadership are approachable on the subject still must be determined.

Maine - (current tax: 37 cents)

The Legislature convenes on December 2, 1992 for what will undoubtedly be the most contentious session in recent history and one which will subject the tobacco industry to close scrutiny.

The 1991-1993 biennial budget of Maine is \$3.1 billion. On July 1, 1992, the end of the first year of the biennium, it was announced that Maine's state budget was balanced with a surplus of \$1.3 million -- a hair's breadth -- but balanced, in accordance with the requirements of Maine's Constitution. There is mounting evidence to suggest that Maine's budget was actually far from balanced, especially given the way state government counts "revenues" and "expenditures."

In the 1991 session, a \$300 million tax increase was enacted with an expiration date of July 1, 1993. Assuming that these taxes will sunset, the Administration has predicted a \$1.1 billion shortfall for the next biennium, indicating they want to spend more in FY 94 and FY 95, in the face of shrinking revenues from taxpayers.

A 14-cent cigarette tax increase, to equal the projected 51-cent tax in Massachusetts, will not put a dent in the projected deficit; and it will be difficult to predict whether we can accomplish a phase-in since legislators will want as much as possible from every source this year. In 1989, however, Maine did adopt a 9-cent tax increase spread over three years (3-2-4).

The economic cross-border study on sales and bootlegging should focus especially on trafficking within New England. The Institute has already begun preparation of a coalition plan for the anti-excise tax group that includes other likely revenue-raising targets.

New Hampshire - (current tax: 25 cents)

New Hampshire is faced with a weak economic business community searching for new revenue-producing ideas. Tobacco is the third largest contributor to state revenues and is still considered a strong attraction for out-of-state visitors making purchases. The idea of creating a state income tax is unlikely to receive serious consideration with the election of Republican Steve Merrill as governor. The legislature will likely work from traditional sources of funding.

The best argument for holding the tax at its present rate will be our prediction of the windfall of cross-border activity from Massachusetts. This will require economic data to support the assertion. If the argument fails, we will seek modest phased-in tax proposals in line with tax increases on other products.

The new Governor is no friend of tobacco. The current Chair of the House Ways & Means Committee promoted the 1991 legislation to roll back the state's cigarette tax rate; she intends to retire from the chairmanship, however, and the industry could lose some support.

Rhode Island - (current tax: 37 cents)

Rhode Island is an important cross-border state and will be affected positively by the Massachusetts rate increase. We believe that our position of delaying an increase for one year may be possible if negotiations with Governor Sundlun are successful. The first step is for The Institute's legislative consultant to meet with the Governor to ascertain whether this is possible. We will present our cross-border projections in support of delaying a tax increase. If this fails, our next step will be to use the conventional tax arguments and seek phase-in alternatives.

In order to fortify our cross-border sales position, we need to draw on the sales of other commodities, such as gas and alcohol, to present a credible picture of the traffic and purchasing patterns of motorists traveling through the state.

Rhode Island still has large budget deficit problems, too large for a tobacco tax increase to cause a noticeable reduction. In general, Rhode Island is a high tax state already. The allies we assemble may be more vocal and stronger than in other states.

Vermont - (current tax: 20 cents)

Even before the 25-cent issue was raised, it was clear that the Governor was looking to tobacco taxes as a means to fund Vermont's new health care system. Governor Dean, a physician, is no supporter of tobacco. The key will be to keep the tax from going to any dedicated funding addressing "anti-smoking and health" that is outside of youth education issues.

The fact that we had a recent phased-in tax increase will operate in our favor; we can seek a similar approach if there is no hope for a delay in imposing some kind of cigarette tax increase. Since privacy legislation remains to be passed in Vermont, we may want to factor this item into our plans from the beginning.

THE SITUATION IN OTHER NORTHEASTERN STATES

New Jersey - (current tax: 40 cents)

The impact of the increase in the Massachusetts excise tax rate on the state's budget process will be minimal. Its only purpose will be to serve those individuals who point to states with a higher tax rate than New Jersey. The Legislature will be reluctant to increase taxes of any kind through the November 1993 elections.

However, tobacco was discussed among possible funding sources for the bailout of the Uncompensated Health Care Trust Fund. Under court mandate, the legislature passed a new financing structure without using excise taxes. The passage of the Massachusetts tax initiative may give the Governor an invitation to use tobacco revenue for funding other health or social service programs.

New York - (current tax: 39 cents)

Current revenue figures for the Empire State are still running below projections and there is no end in sight to the recession. It is believed that the deficit will hover around \$1.4 billion, which is smaller than in previous years. However, this figure does not reflect a scheduled delay in the reduction in personal income tax, which will bring the overall deficit down substantially.

The increase in Massachusetts will prompt our adversaries to call for increased excise taxes. However, New York State has a long history of reluctance to dedicate sources of revenue within the state budget. The only exceptions deal with roads and bridges or law enforcement. The chances of passing a major budgetary program dedicating revenues for tobacco control or adolescent smoking prevention are minuscule. This was confirmed during the 1992 budget process when the State Coalition for Smoking OR Health called

for a doubling of the tobacco excise tax to institute a program based on California's Proposition 99. This proposal was dead before the ink dried on the coalition's press release. Nevertheless, the introduction of a 25-cent/pack increase for general fund usage seems certain.

Pennsylvania - (31 cents)

The Governor will use any state's increase in the tobacco excise tax as a rationale to raise Pennsylvania's excise tax. It is expected that the Governor's budget could include a 50-cent increase in cigarette excise taxes. Massachusetts' tax hike will only reinforce the Governor's determination for an increase. A very public effort to deliver a progressive tax message is needed to balance the leadership of the Governor on tobacco.

On the other hand, Pennsylvania is a relatively conservative state. Increasing any taxes is an action that all legislators wish to avoid. The 1991 budget package resulted from the avoidance of tough fiscal policies in lieu of easy election year promises. Next year's budget will not surround itself with the same political environment as 1991.

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STRATEGY #3

THE SITUATION IN NEW ENGLAND STATES

Connecticut

This year, the vending industry supported a statewide law which licenses and restricts placement of cigarette vending machines but allows local governments to enact more stringent laws. Sales and vending restrictions have not been an issue at the local level. Advertising restrictions are now pending in Stamford but no other city or town has taken any type of action so far. The state already sets smoking standards for restaurant and public areas; however, this issue could gain attention in the coming year. Fairfield County, Greenwich and Hartford could be targets. The advertising issue could also be a major target because of the recent New York City ordinance relating to placement of anti-smoking advertisements on city property and transit systems. It is logical to assume the same proponents of the New York City measure will carry the campaign to several adjacent states.

Maine

Even though there is no formal anti-tobacco strategic plan, ASSIST funding makes Maine a potential local battleground. In 1992, the media focused to a degree on increased education of young people about tobacco use. But since Maine has one of the worst state budget deficits and high unemployment, smoking issues are not on the legislative priority list. The Maine Lung Association remains active, if unsuccessful, in promoting the passage of a state licensing law and vending machine ban. An industry goal for 1993 is preemptive legislation if a suitable agreement can be reached. Otherwise, if the anti-smoking groups fail again at the state level, they will target three or four larger cities in Maine for local adoption of sales and public smoking restrictions. Portland, Bangor, Augusta, and Bar Harbor are likely sites. Any law which would adversely affect tourism and local economies will not be well received by retailers and the general public.

Massachusetts

The challenges in Massachusetts remain enormous. In 1992, more than 25 cities and towns have addressed retail sales and public smoking issues. The Tobacco Institute and its members communicated and coordinated needs for local issues, bringing together allies and resources to keep pace with the local public hearing process. The boards of health are a formidable body to monitor and lobby, even with our best efforts. The potential addition of new funding to these boards of health and community-based groups makes the task even more difficult.

We have been successful this year in creating a statewide monitoring and key contact program through the New England Convenience Store Association. This pilot project gives us a retail ally in many cities throughout the Commonwealth. This program is capable of expansion throughout New England. The convenience store managers and employees are vital in fighting the local governments. We have also begun organizing restaurants and other retail allies through the Marketing Freedom Coalition. The MFC is managed by a member company consultant and functions much like the Dolphin Group in California. The vending association has been extremely cooperative and aggressive in amending total vending ban proposals to allow lock-out devices on cigarette machines. This alone has saved the vending industry from total extinction in Massachusetts. Even without financial support from the tobacco industry, the vending group has challenged three or four cities in court actions. This has, in some instances, bought the other retail allies time to seek suitable agreements on ordinance proposals.

The single most important need the industry has for next year is the addition of more coalition building support. T.I.'s lobbyist, the current MFC consultant, and RJR local contact representative cannot keep up with the total volume of public hearings and coalition management. It is becoming increasingly difficult to manage the entire group each week, attend some of the hearings, solicit new coalition allies, and still keep up with the other state legislative matters. Additional travel and weekly conference calls and fax communications are vital to the overall management of the local government steering group. Phone banks, surveys, polling and financial support to coalition allies must also be increased.

Increased resources are needed to meet the demand in Massachusetts and to expand these programs in New England. Without state preemptive legislation in Massachusetts or other New England states, the scope and intensity of the local problem will increase in proportion to the additional funding received by the anti-smoking coalitions.

New Hampshire

Retail sales and vending restrictions are possible as are public smoking bans in some cities. The only notable activity in New Hampshire in 1992 was a series of local sting operations directed at sales to minors. New Hampshire, like Vermont, is not likely to have activity in small towns or cities, but we can expect two or three larger cities to propose sales and public smoking measures. The resources and organizational strength of the anti-smoking groups is marginal. Our best defense will be increased education of and participation by retailers in the "It's the Law" program.

Rhode Island

This year marked the biggest increase in state tobacco-related legislation ever. Public smoking issues, school smoking bans, and advertising were all raised. Local activity was minimal, but ASSIST funds will likely be used to implement a local action plan in 1993.

We also believe that several types of local restriction measures could be introduced and, despite Rhode Island's size, it could very well be the next state to have the most activity. We are fortunate to have a strong base through coalition allies such as the Rhode Island Hospitality Association. This group has adopted a smoker accommodation program and has committed to fight total restaurant smoking bans. To defuse the retail and advertising issues, we will need additional resources and allies. Again, we will consider state preemptive legislation to cut off the attempts to take the issue to the towns and cities.

Vermont

We expect moderate activity, mostly public smoking restrictions. Vermont is one of the few states that has not adopted a comprehensive public smoking state law. The state has addressed retail sales and vending through a state licensing law. The Vermont constitution gives broad authority to local governments in matters associated with enacting local laws directed at the sale of tobacco. We do not believe Vermont will follow Massachusetts by using local boards of health for promotion and control of public smoking. With the exception of the few major cities, towns have limited personnel and funding for enforcement of tobacco restrictions. However, without passage of a statewide preemptive law addressing public smoking, we will be vulnerable in the larger cities to restaurant and public smoking restrictions.

THE SITUATION IN OTHER NORTHEASTERN STATES

New Jersey

The industry will face an upsurge of legislative proposals as a direct result of the Massachusetts initiative. This activity will be spearheaded by the New Jersey Coalition on Smoking OR Health and funded by ASSIST. It is the current belief that their activities will center on smoking bans in restaurants, workplaces and other public places. We should expect renewed efforts to implement workplace smoking bans with the secondary goal of restaurant smoking bans.

New York

The New York State Coalition on Smoking OR Health is developing a statewide smoking control plan to be implemented at the county level. The anti-tobacco program is in its early stages of development so goals and objectives are not clearly defined. The expectation is that their focus will be smoking bans in workplaces and restaurants in targeted localities with ASSIST as a source of funding.

The Massachusetts initiative's media component will have a direct impact in upstate New York and will most likely complement the statewide smoking control plan.

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Pennsylvania

The enactment of the Massachusetts initiative will have little effect on the enactment of adverse tobacco legislation. Currently, the state has a comprehensive, preemptive smoking restriction law that local government is reluctant to challenge. With regard to vending restrictions, the courts have ruled in the industry's favor. Moreover, Pennsylvania does not receive ASSIST funding.

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