

**STATE GOVERNMENT AFFAIRS**  
**WEEKLY REPORT**  
**APRIL 17, 1998**

**Resolution**

**(T) California** - On 4/9, a meeting was held with industry state contract lobbyists to update them on the industry's position and assign congressional contacts as part of the recess campaign. Also on 4/9, a meeting was held with various third party groups to update them on the McCain legislation as part of the recess campaign. During the week of 4/13, designated industry state contract lobbyists will be contacting Rep. Fazio and Rep. Cox as part of the recess campaign.

**(T) California** - S.1928 requires that funds received by the state under a national tobacco settlement be used to reduce personal income taxes. It was scheduled to be heard in Senate Revenue and Taxation on 4/15; however, the hearing was postponed indefinitely.

**(T) California** - SJR 32 requests that funds be diverted from any federal tobacco settlement to the U.S. Dept. of Veterans Affairs to compensate veterans who suffer from tobacco-related diseases acquired during military service. It is scheduled to be heard in the full Assembly on 4/16.

**(T) Louisiana** - S.78 designates the Secretary of the Department of Health and Hospitals to act as the state's agent in administering federal funds for the Children's Health Insurance Program. It was amended on the House floor on 4/13 to provide that up to \$10 million per year of funds received by the state from any national tobacco settlement shall be credited to help pay for the program.

**(T) Massachusetts** - The Federal Action Team will hold a summit meeting on 4/16, relative to engaging third-party opposition to the McCain proposal.

**(T) Montana** - PM and TI lobbyists met with Senator Conrad Burns on 4/14 to discuss the industry's position on the McCain legislation.

**(T) Ohio** - SGA Regional Director is attending the NCSL/AFI special meeting on the tobacco settlement in the states on 4/16.

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**(T) Oklahoma** - SCR.54, the resolution urging Congress to pass the 6/20 resolution was withdrawn on 4/13. The Attorney General publicly reiterated his support for the 6/20 settlement.

**(T) Rhode Island** - The Federal Action Team held a summit meeting on 4/14, which included the New England Convenience Store Association, Tavern Owners, Rhode Island Hospitality & Tourism Association and Tobacco Wholesalers, to engage third-party opposition to the McCain proposal.

**(T) Wisconsin** - Senior management spoke with Governor Tommy Thompson on 4/16, regarding the McCain bill.

## **Fiscal**

**(T) Alabama** - HB78 which would have imposed a \$5.1B assessment on the tobacco industry, was defeated by a vote of 8-5 on 4/16 in the Senate Finance Committee. Both the assessment and tax bills are dead.

**(T) Arizona** - S1160 increases the amount of tobacco tax revenue being used for grants to qualified health centers from \$5 million to \$7.5 million. It was approved by the Senate Committee of the Whole by a 25-3 vote and is being sent to the House.

**(B) California** - S.1998 makes various changes to the vehicle license and fee provisions and repeals the state excise surtax on the sale of alcohol beverages. The bill is scheduled for hearing in the Senate Revenue and Taxation Committee on 4/15.

**(T) California** - A.2422 would transfer funds from the Public Resources account to the Health Education account for the purpose of anti-tobacco education in elementary and secondary schools. It is scheduled for hearing on 4/20 in the Assembly Natural Resources and Health Committee.

**(T) California** - S.1821 expands competitive grants within the youth tobacco prevention program to grades 7 and 8. The bill is scheduled for hearing in the Senate Health and Human Services Committee on 4/15.

**(F) Minnesota** - Just prior to adjournment, the Legislature approved the Omnibus Tax bill, containing major property tax reform. The provision reduces commercial/industrial rates as follows: first \$150,000 of market value falls from 2.7% to 2.45%; all value over \$150,000 reduced from 4.0% to

3.5%. The reform is estimated to reduce commercial/industrial property taxes by at least \$70 million in 1999. The governor is expected to approve.

**(T) New Hampshire** - H.1681, increases the tax on all tobacco products by \$.23 and designates the funds for public education, will hold a work session in the House Finance Committee on 4/14.

**(B) New York** - The New York State budget was passed by both the Senate and Assembly on 4/14, containing numerous business tax reductions including a corporate tax reduction of 7.5%, effective 7/99; a beer excise tax reduction of \$.025 cents, effective 1/99; and a truck mileage tax reduction of 25%, effective 1/99. The budget will now go to Governor Pataki for signature.

**(T) New York - Schenectady County** -- A.10673, creates a Metroplex Development Authority funded in part by an 8% (18 cents per pack) increase in cigarette and other tobacco taxes. The Legislature refused to consider the bill if it contained a local tax. The local tax was removed.

**(F/B) Wisconsin** - The Governor's Budget Adjustment bill, A.768/S.436A, will be heard during a special session of the Legislature the last week of April. Provisions which should be amended to the bill include language to eliminate the state tax on "Lunchables" and language eliminating personal property tax on computer hardware and software.

## **Marketing**

**(T/B) California - Carson** -- On 4/14, the Planning Commissioners voted unanimously to approve an ordinance banning tobacco, alcohol and illicit sex billboards within 1,000 feet of schools, parks, playgrounds and residential areas. The Commissioners amended the proposed ordinance extending the ban to include day care centers with more than 50 children. The proposed ordinance will now go before the full City Council. No date has been set at this time.

**(T/B) California - Los Angeles** -- On 4/9, the Planning Commission voted 4 - 1 recommending staff to draft and City Council to approve four separate ordinances banning 1) alcohol and 2) tobacco billboard advertising ("off-site") within 1,000 feet of all residential zones, schools, parks and playgrounds, and 3) alcohol and 4) tobacco advertising ("on-site") in locations visible to the public from outdoors, including inside store windows, within 1,000 feet of all residential zones, parks, schools, and playgrounds. The Planning Dept. will

draft the proposed ordinances and report back to the Planning and Land Use Mgmt. Committee. No date has been set.

**(T) Connecticut - Bridgeport --** The City Council will hold a hearing on 4/28 on Chapter 8.90, a proposed ordinance entitled "Regulation of the Marketing of Tobacco Products to Children," prohibiting outdoor advertising including visible retail locations within 1,000 feet of a public school or park.

**(T) Iowa -** The House is scheduled to consider SF.2286 which bans smoking in day care centers and mandates billboards to be placed 1,000 feet from schools on 4/15. An amendment to add Florida-style Medicaid legislation to the bill has been filed. The Legislature will adjourn on 4/17.

**(T) Massachusetts -** State Attorney General Scott Harshbarger formerly filed a proposal to ban cigarette billboards and store advertisements near schools and require retailers near schools to post signs on their cash registers which read: "KIDS: SMOKING CAN KILL YOU." This initiative is filed under the consumer protection regulations and does not require legislative approval. The Attorney General plans to hold hearings around the state possibly as soon as May.

**(B) Tennessee -** SB2194, a bill to allow for the sale of beer in 22, 40, and one gallon or more passed the Senate and referred back to the House for amendment concurrence.

**(T) Vermont - Burlington --** The City Council passed the omnibus tobacco marketing restriction proposal by a vote of 8-5 on 4/13. The measure limits indoor and outdoor advertising to black and white ads; limits point of sale materials to two 8/12 by 14 inch per store, tombstone signs; bans all outdoor tobacco advertising and ads visible from the outdoors within 1,000 feet of schools, prohibits sampling and couponing, bans event sponsorship, and bans self-service displays. The effective date is 7/1/98.

## **Smoking**

**(T) Massachusetts - Acton --** Regulations were passed at a town meeting on 4/16, to ban smoking in restaurants, by a vote of 217-135. The regulations are effective 9/30/98.

**(T) New York - Rockland County --** An unnumbered proposal virtually banning smoking is being considered. Among other things, this proposal

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bans smoking except in totally enclosed and separately ventilated bars, and requires separate ventilation at private events where smoking is permitted. A hearing will be held on 5/5.

**(T) Rhode Island - H.8067**, requires an employer to adopt, implement and maintain a written smoking policy and requires ventilation used to control odors in the workplace must exceed the guidelines established by ASHRAE, was withdrawn at the sponsor's request.

**(T) Rhode Island - H.8763**, requires the state police to establish a registry to monitor the enforcement and compliance of the tobacco control laws, was referred to the House Finance Committee on 4/9. No hearing has been set. The bill requires all results of sting operations filed with the state police registry.

## **Product Regulation**

**(T) California - A.2200** requires the State Fire Marshal to adopt fire safety standards for cigarettes sold, offered for sale, or manufactured in the state that limit the risk that the cigarettes will ignite upholstered furniture or mattresses. On 4/13, the bill was amended by the author to substitute Bureau of Home Furnishings and Thermal Insulation for the State Fire Marshal in the adoption of fire safety standards for cigarettes sold in California. It was referred to the Assembly Committee on Consumer Protection, Government Efficiency and Economic Development on 4/13.

## **Trade Related**

**(T) California - S.2134** would require the State Board of Equalization to revoke the permit issued to a distributor or wholesaler that is found to be in violation of certain stamping or metering requirements. On 4/13, the bill was unanimously approved by the Senate Revenue and Taxation Committee.

**(T) Hawaii - H.3065** requires that each package of cigarettes sold within the state be identified with a tax stamped or meter impression and defers for one year the scheduled \$.20 per pack tax increase. It passed the Assembly Ways and Means Committee on 4/9.

**(T) Louisiana - S.55** allows retail dealers who qualify as a tobacconist to purchase tobacco products directly from manufacturers, wholesalers or other

suppliers. It passed the House on 4/8 by a vote of 102-0. It passed the Senate on 4/13 by a vote of 36-0.

## **Youth Access**

**(T) California - San Mateo County --** On 4/14, the Board of Supervisors voted 4-1 to pass on first reading an amended version of a proposed ordinance requiring a permit for selling tobacco products. The proposed ordinance requires a permit for any retailer, individual or entity that sells tobacco products. If a retailer is caught selling tobacco products to a minor, its permit is suspended and fines are imposed. The proposed ordinance stipulates that stings must be conducted under the guidelines of the STAKE Act. Second reading is scheduled for 4/28, and if adopted, the ordinance will take effect 9/1/98 and sunset in five years.

**(T) Colorado - H.1387** changes the enforcement of illegal sales to minors from the Health Department to the Liquor Board in the Revenue Department. It passed the House on 4/14 and has been sent to the Senate.

**(T) Hawaii - S.2849** increases the fine for the sale of tobacco to a minor to \$500 for a first offense, and not less than \$500 and not more than \$2,000 for any subsequent offense. It passed the House Finance Committee on 4/9.

**(T) Iowa -** On 4/14, HF.2120, a self-service display ban bill, was sent to the Governor. The bill, which allows packs on the counter if they are inaccessible by the customer, would be effective 1/1/99 if the Governor signs it.

**(T) Kansas - H.2726,** which clarifies penalty provisions related to youth possession of tobacco, remained in the House/Senate Conference Committee, as the legislature adjourned on 4/10. The Conference will continue deliberations when the veto session convenes on 4/28.

**(T) Ohio - Cincinnati --** A resolution drawn up by Mayor Roxanne Qualls, urging the General Assembly to pass S.221, raising the legal age for tobacco products from 18 to 21, was signed off by the Intergovernmental and Regionalism Committee on 4/9.

## **Tort**

**(T) Arizona** - H2137 was amended in the Senate Government Committee on 4/14 to limit fees to contingency lawyers in the state's tobacco lawsuit to \$250,000 per firm/\$1,000,000 aggregate.

**(T) California** - A.2000 holds manufacturers of tobacco products liable for health damages caused by their products. The bill will be amended to impose a "regulatory fee" upon the industry for the alleged costs to society of tobacco products (which unlike a tax can be imposed with a simple majority vote). It is scheduled for hearing on 4/20 in the Assembly Consumer Protection Committee.

**(T) Maryland** - SB 652 Florida style Medicaid legislation was passed by the House 79-57 (needed 71 votes). Bill goes to the Governor for signature.

**(T) New Hampshire** - House-passed H.1295, establishes a procedure for disbursement of a settlement by a recipient of state medical assistance from a liable third party, was heard in the Senate Finance Committee on 4/9. A committee report is pending.

**(T) Vermont** - House-passed H.749; giving Vermont direct cause of action against tobacco manufacturers to recover Medicaid costs, allowing the state to recover punitive damages, barring affirmative defenses including those of comparative negligence and assumption of risk, allowing the state to use statistical evidence to prove causation, and allowing use of market share to apportion damages; passed the Senate on 4/8, with amendments, by a vote of 21-9. Amendments adopted allow the industry to use statistical information to rebut the state's case, set up a review by the Joint Fiscal Committee of the legal fees charged to the state, and clarify the chain of events of the state's legal action. The House concurred by a vote of 72-59 on 4/13. The measure has been sent to the Clerk of the Legislature who will transmit it to the Governor for action. Governor Dean will have 5 days (excluding Sunday) to act on the bill. If he signs the measure or does not take any action by the deadline, the bill becomes law.

## **Regulatory**

**(B) New Hampshire** - House-passed H.1480, allows a municipality to petition the State Liquor Commission to revoke the liquor license of a licensee located in that jurisdiction, was voted "ought to pass" by a vote of 4-1 in the Senate Ways and Means Committee on 4/9. The measure passed the Senate by a voice vote on 4/9 and goes to the Governor for consideration.

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**(F) New York** - S.6914, introduced on 4/9 and referred to the Senate Economic Development and Small Business Committee, requires state agencies to make the underlying data for regulatory actions available for public review.

### **Three-tier**

**(B) Louisiana** - H.191 allows the direct shipment of wine to consumers. It passed the Senate Judiciary Committee on 4/13 and is awaiting consideration on the Senate floor calendar.

**(B) New Hampshire** - House-passed H.1130, disallows cross-stocking or the delivery of beverages invoiced to on-sale or off-sale retailers by a wholesale distributor for storage in a liquor warehouse, was voted "ought to pass" by a vote of 4-0 in the Senate Ways and Means Committee on 4/7. The measure passed the Senate by a voice vote on 4/9 and goes to the Governor for consideration.

### **Alcohol Abuse**

**(B) Kentucky** - S.145, establishing the Kentucky Traumatic Brain Injury Trust Fund by increasing assessments on DUI violators was vetoed by Governor on 4/10.

**(B) Minnesota** - H.2389, provides for a .08% BAC for a first offense and passed this session, failed to come to any agreement in Conference Committee, effectively killing the bill for the session.

**(B) Minnesota** - S.2099, provides for .08% BAC for repeat offenders only and passed this session, failed to come to any agreement in Conference Committee, effectively killing the bill for the session.

**(B) Rhode Island** - H.7506, reduces the blood alcohol level to .08%, passed in the House Judiciary Committee by a vote of 13-2 on 4/9. The measure will be sent to the House for consideration. No date has been set.

**(B) Rhode Island** - H.7634, reduces the blood alcohol level to .08%, was heard in the House Judiciary Committee on 4/9. The measure was not moved in the committee which effectively defeats the bill for the session. This bill



was introduced at the request of the Governor, State Police and State Department of Transportation.

**(B) Rhode Island** - S.2831, reduces the blood alcohol level to .08%, has been left on the Senate Judiciary Committee docket which effectively defeats the bill for the session. This bill was introduced at the request of the State Police and the State Department of Transportation.

## **Environmental**

**(B/F) California** - A.2309 requires a report under the Beverage Container Act to include recommendations regarding enhancing mobile recycling opportunities and a report of the progress towards achieving maximum use of recycled materials in beverage container manufacturing. It was amended on 4/13 to add sports drinks, coffee and tea drinks, non-carbonated water and juice drinks to the beverage container recycling act. The bill extends a partial buydown or processing fees indefinitely, and increases handling fees paid to retailers from \$18.5 million to \$24 million annually. The bill is scheduled for hearing in the Assembly Natural Resources Committee on 4/20.

**(B/F) California** - A.2420 requires the Department to set the recycling cost for PET containers as \$770 and would delete the repeal of the existing processing fee calculation provisions. It is scheduled for hearing in the Assembly Committee on Natural Resources on 4/20.

**(F) California** - A. 2555 requires each producer and packager of plastic packaging material to ensure that on and after 1/1/2003, not more than 50% of its plastic packaging material types sold or offered for sale in this state becomes waste, that on and after 1/1/2006 not more than 35% becomes waste, and that on and after 1/1/2010, not more than 20% becomes waste. The bill was heard on 4/13 in the Assembly Natural Resources Committee. No action was taken.

**(B/F) California** - A.2673 requires the Department of Conservation to reduce the minimum percentage requirement by crediting toward that requirement the tons of postfilled glass used in CA for secondary end uses, is scheduled for hearing on 4/20 in the Assembly Natural Resources Committee.

**(B/F) Hawaii** - S.2350 provides a recycling income tax credit for any taxpayer that collects post consumer recyclable materials from another within the State as part of a recycling business for recycling, processing for

market, or manufacturing products for resale from the materials. It also provides that the credit shall be 25% of the purchase price of the machinery or equipment paid by the taxpayer. The bill was reported from the House Finance Committee on 4/9.

**(F) Maine** - LD2111, establishes new toxic and hazardous waste reduction goals through the year 2006, died in committee upon adjournment.

## **Dairy**

**(F) Maryland** - HB 237, Northeast Interstate Dairy Compact was passed by the Senate. Bill goes to Governor for signature.

**(F) Minnesota** - Stearns County -- The Commissioners adopted a 90-day temporary moratorium, originally thought to apply to dairy herd size, but now is limited to swine only.

**(F) Oklahoma** - The Governor signed legislation creating an Oklahoma Dairy Committee, H.2358, on 4/8.

## **Miscellaneous**

**(T) California** - S.1433 prohibits the Public Employees' Retirement Fund and State Teachers' Retirement Fund from future investments in tobacco companies and requires a phased divestment of those investments beginning 1/1/2000. On 4/13, the Senate Committee on Public Employment and Retirement amended and approved the bill by a vote of 3-1 and referred it to the Appropriations Committee. The amendments set up a mechanism for the PERS and STRS boards to go to the general fund for divestment purposes pertaining to costs lost in tobacco investments.

**(T) California** - A.2317 increases fines and criminal penalties for OSHA violations that result in death or prolonged impairment of employee if trier of facts finds that it was "reasonably foreseeable" that the conduct of the violation would cause death or prolonged impairment. The bill is schedule for hearing on 4/22 in the Assembly Labor and Employment Committee.

**(T) California** - S.2134 would require the State Board of Equalization to revoke the permit issued to a distributor or wholesaler that is found to be in

violation of certain stamping or metering requirements. On 4/13, the bill was unanimously approved by the Senate Revenue and Taxation Committee.

**(B/F/T) Hawaii** - S.2399 establishes a pilot program for reformed elections for Governor and Lt. Governor in 2002, requires participating candidates to comply with expenditure limits and raise no private contributions except for seed money and minimum qualifying contributions. On 4/9, the bill passed the House Finance Committee.

**(B/F/T) Kansas** - The legislature adjourned on 4/10 and will return on 4/28 for a veto session.

**(B/F/T) Nebraska** - The legislature adjourned sine die on 4/14.

**(T/B/F) New York** - The Legislature is in recess until 4/29.

**(B) North Carolina** - Action 2000 training for distributors and vendors is scheduled for 4/16.

**(F/B/T) Texas** - Former Supreme Court Justice John Cornyn received 58% of the vote in winning the Republican nomination for Attorney General over Railroad Commissioner Barry Williamson in the Republican primary runoff election on 4/14. Cornyn will be opposed by Democrat Jim Mattox, a former Attorney General, in the November general election. Mattox won his party's nomination during the Democratic primary election on 3/10.

**(T/F/B) Virginia** - The General Assembly has extended their Veto session through 4/16.