

EXECUTIVE SUMMARY of State Legislative Activity

As of July 23, 2002

Ö Legislative sessions:

- Alabama, Alaska, Colorado, Florida, Georgia, Idaho, Iowa, Kentucky, Maine, Minnesota, Mississippi, Missouri, New Mexico, Oklahoma, South Carolina, Virginia, Washington, West Virginia, Wisconsin and Wyoming adjourned their regular 2002 sessions without passing legislation harmful to the tobacco industry.
- The Illinois legislature adjourned until the veto session scheduled for November. Indiana concluded its special session. Oregon concluded its special session. California is in an unofficial recess until August 5. Michigan has recessed until August 13. Ohio is recessed until September. Maine is considering a special budget session. Montana will convene for a special session on August 5. The Nevada legislature will convene for a special session around August 29. Arkansas, Montana, Nevada, North Dakota, Oregon and Texas do not have regular sessions scheduled for 2002.

Ö Smoker tax threats:

State	Chance of Passage	Proposed Per Pack Tax Increase	Range (From Current to Proposed)	Action
REGION I				
Massachusetts	Passed at 75¢	75¢	76¢-\$1.51	Both bodies passed 75¢ and sent to the governor. She did not sign in the proper time (pocket veto). The legislature is expected to override.
New York Westchester County	< 50% chance			Legislation was introduced in the Assembly to authorize Westchester County to impose an excise tax on cigarettes. As of the time of this report, the senior member of the Westchester Senate delegation was refusing to introduce the bill. Without his support, the bill has no chance of passage
REGION III				
Arizona	Referendum on November ballot (Proposition 303) < 50% chance	60¢	58¢-\$1.18	The Legislature has approved Proposition 303 for the November 5 ballot. This measure, if approved by the people, would increase the smoker tax on a pack of cigarettes by \$.60 to \$1.18 per pack. If passed, it will also increase the tax on smoking tobacco, all chewing tobacco and all cigars.
REGION IV				
California	Very likely to pass at 63¢	63¢	87¢-\$1.50	An omnibus budget bill passed out of the Senate that calls for a 63-cent per pack increase in the smoker tax (.87 to \$1.50). The governor's budget had contained a 50-cent per pack increase. Without question, tobacco taxes are very much in play. The legislature is in recess until August 5.
Montana	Very likely to pass at 50¢	50¢	18¢ - 68¢	Due to the state's mounting budget deficit, the governor has called for a special session that will convene on Aug. 5.
REGION VI				
North Carolina	< 50% chance	50¢ \$1.00	5-55¢ 5¢-\$1.05	Introduced

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- √ The following states have defeated smoker tax increases in 2002:
 - Iowa adjourned without passing the 50¢ smoker tax.
 - Industry lobbyists turned back a procedural effort to introduce a smoker and alcohol excise tax increase in Maine.
 - Minnesota considered and failed to pass nine smoker tax increase bills before adjourning, ranging from 4¢ to 60¢.
 - Mississippi defeated smoker tax increases of 2¢, 25¢, 32¢ and 50¢.
 - Missouri adjourned without passing a 50¢ increase in the smoker tax; an initiative calling for a 55¢ increase is being appealed in the courts.
 - New Hampshire defeated a 2001 carryover bill that would have increased the smoker tax by 50¢.
 - New Mexico defeated three smoker tax bills (25¢, 35¢ and 60¢); current tax rate is 21¢ per pack.
 - Efforts to increase the South Carolina smoker tax by 44¢ per pack (7-51¢) failed in the House.
 - South Dakota defeated three smoker tax bills (11¢, 17¢ and 50¢); current tax is 33¢ per pack.
 - Connecticut legislature passed legislation to increase the excise tax on smokers by 61¢ per pack (50¢-\$1.11), effective 4/3/02.
- √ In Colorado, the Democratic gubernatorial candidate unveiled a \$2.5 billion health care plan including a \$1.00 per pack tax hike on cigarettes. The current tax on a pack of cigarettes in Colorado is \$.20.
- √ Hawaii passed legislation increasing the smoker tax by 20-cents per pack (\$1.00 to \$1.20), effective 10/1/02. The tax would increase by another 10-cents on 7/1/03 and by another dime on 7/1/04.
- √ Illinois passed a 40¢ increase (58¢-98¢). Effective 7/1/02.
- √ Indiana passed a 40 cents per pack smoker tax. (15.5¢ - 55.5¢). Effective 7/1/02.
- √ Kansas passed a 46¢ increase (24-70¢) in the smoker tax. Effective on 7/1/02. An additional 9¢ increase (70-79¢) effective on 1/1/03.
- √ Louisiana approved a 12¢ increase (24¢-36¢) effective 8/1/02. In addition, the legislature extended for another ten years, a 4 cents smoker tax that was scheduled to expire on July 1.
- √ Maryland passed a 34¢ smoker tax increase (66¢-\$1.00), effective 6/1/02.
- √ Michigan increased the smoker tax by 50 cents a pack (75 cents to \$1.25). Also included in the legislation, is an increase in the OTP tax from 16% to 20% and a floor stock tax. Effective 8/1/02.
- √ An initiative in Missouri to increase the smoker tax by 55¢ is currently scheduled to be voted on this November. The Missouri Circuit court rejected a challenge to the initiative. That ruling is being appealed.
- √ The "Task Force For a Healthy Nevada" voted to ask the 2003 Legislature to boost the tax on cigarettes, which has not been increased since 1989, from 35-cents per pack \$1.00. Also, Representatives of the Nevada Tobacco Prevention Coalition, the American Heart Association and the American Cancer Society were quoted in the media saying they plan to appear before the Nevada Task Force on Tax Policy and encourage them to recommend raising the tax on cigarettes by \$1 per pack (\$.35 to \$1.35).
- √ The New Jersey passed an increase in the smoker tax of 70¢ per pack (from 80¢ to \$1.50). Effective 7/1/02.
- √ The New York legislature approved a home rule request from New York City to increase the city's smoker tax by \$1.42 (from 8¢ to \$1.50). Effective July 8, 2002.
- √ Bills to eliminate existing preemption of local cigarette taxing authority in Missouri died on adjournment.
- √ A bill containing a 30¢ per pack smoker tax (34¢-64¢) passed the Nebraska legislature but was vetoed by the governor. The legislature overrode his veto and the tax is effective on 10/1/02, and is scheduled to sunset 10/1/04.
- √ New York State passed legislation to increase the smoker tax by 39¢ per pack (\$1.11 to \$1.50). Effective 4/3/02.
- √ On 6/29, Pennsylvania increased the smoker tax by 69¢ a pack (31¢ to \$1.00) increase in the smoker tax.

- √ A 31¢ increase (24¢-55¢) was passed in Ohio. Effective 7/1/02.
- √ Oregon has approved a 60-cents per pack increase in the smoker tax (\$.68 to \$1.28) to be put on the ballot during a statewide vote on Sept. 17.
- √ Rhode Island passed a seven-year, phased-in \$1.01 increase in the smoker tax (from \$1.00 to \$2.01 by July 1, 2008). The first phase of the increase, 32 cents-per-pack, took effect immediately.
- √ Tennessee passed 7 cents (13 to 20). Effective 7/15.
- √ Utah passed an 18¢ smoker tax increase (51.5-69.5¢), effective 5/6/02.
- √ Vermont, passed a smoker tax increase of 49¢ (44¢-93¢), effective 7/1/02; and 26¢, effective 7/1/03 (93¢-\$1.19).
- √ Legislation was defeated in Virginia that would have extended local cigarette taxing authority to counties of a certain size.
- √ The Washington State Superior Court judge granted the state's motion for summary judgment and dismissal of the lawsuit that would have repealed the 60¢ per pack tax increase passed by voters in the November 2001 elections. Appeal to the Supreme Court has been deferred to September-October 2002 timeframe.

Shelf space:

- √ Arizona, Florida, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Mississippi, Missouri, Oklahoma, South Dakota, Utah, Washington and West Virginia have defeated legislation to prohibit cigarette manufacturers from linking retail display allowances and other promotions to shelf-space allocation. Shelf-space bills have been introduced in New Jersey, New York and Rhode Island. In Michigan, attempts to amend the tax-increase bill with shelf-space language were defeated. B&W is attempting to amend a youth access bill in Pennsylvania.
- √ The B&W shelf space proposal was introduced in California. An unrelated 2001 Assembly bill was gutted and the shelf space proposal was inserted into the bill. In addition to the traditional shelf space language, the bill also includes a proposal that would limit tobacco advertising in retail outlets to the name of the product and its price. The bill was passed out of the Senate Health Committee

Non-participating manufacturer (NPM) escrow compliance:

- √ NPM legislation has been signed into law in Idaho, Indiana, Kansas, Louisiana, Michigan, Nebraska, Oklahoma, South Dakota, Rhode Island, Tennessee, Utah and Virginia. Illinois passed NPM legislation where it awaits the governor's signature.
- √ NPM legislation in California was passed unanimously out of the Senate Health and Human Services Committee. However, in an unfortunate twist the bill sponsor agreed to let it be combined with a piece of legislation that would impose a one time, 1-cent per pack "fee" on the manufacturers to fund a program intended to curtail counterfeit and contraband tobacco products. Since the "fee" portion of the legislation would cost RJR around \$3.2 million, we are opposing the bill in its entirety.
- √ Iowa passed an NPM bill that was vetoed by the governor, at the attorney general's request.
- √ As part of the Michigan tax increase, the bill contained language that requires NPMs to annually certify to the state that it is a non-participant in the MSA and that it has performed all of its obligations pursuant thereto.
- √ NPM bills have either been introduced or are anticipated in the following states:
 - Massachusetts, New Jersey, and Pennsylvania. The legislation would prevent NPMs from conducting business in these states unless they are in compliance with MSA escrow provisions.
- √ NPM bills are dead in Arizona, Connecticut, Florida, Georgia, Hawaii, Kentucky, Mississippi, South Carolina and Washington.

Sampling:

- √ Washington's sampling bill was defeated. Massachusetts is considering bills to ban tobacco sampling.
- √ Buydown and couponing language has been removed from proposed Boston, MA Public Health Commission issued final regulations that prohibit sampling.

Internet/direct sales:

- √ Three bills are being considered in the California legislature that would regulate the sale of tobacco products to adult smokers via the Internet, catalog or phone. A bill passed the Senate that would require the seller to have the purchaser's photo ID on file; require the purchaser or another adult in the household to sign for delivery of the product, and require a two-carton minimum purchase. A second, similar bill passed out of the Assembly and goes to the Senate. The third bill, which requires that an Internet sellers' website prominently notify the purchaser of their obligation to remit the appropriate taxes to the state, passed out of the Senate.

Fire-safe cigarettes:

- √ A bill was introduced in the New Jersey Assembly that would require the Department of Fire Safety to promulgate fire safety regulations for cigarettes sold in the state.
- √ RJRT representatives met with the New York assemblyman who was the primary sponsor of the fire-safe cigarettes law to discuss amending the law. On 5/14, representatives of the New York Office of Fire Prevention and Control (OFPC), the Department of State and the Department of Health met with RJRT Research and Development personnel to discuss our progress on fire-safe research. New York Governor George Pataki signed a bill to appropriate \$1,070,000 to develop and promulgate fire-safety standards for cigarettes. On 7/25 industry representatives will meet with OFPC officials to discuss package markings designed to differentiate NY product from other states'.
- √ Massachusetts has a fire-safe bill pending in the House Ways and Means Committee.
- √ Rhode Island fire-safe bill died on adjournment.
- √ Minnesota and Rhode Island's fire-safe legislation died with adjournment.

Ingredients disclosure:

- √ An ingredients disclosure bill was introduced in New York that would require cigarette manufacturers to disclose added constituents and identify toxic constituents, both in the tobacco and in side stream smoke.
- √ Ingredients legislation died on adjournment of the Hawaii and Illinois legislature.

Appeal bond cap:

- √ Bond cap legislation has been signed into law in Indiana (\$25 million), Michigan (\$25 million) and Ohio (\$50 million).
- √ Iowa's governor vetoed bond cap legislation, saying it would "drastically reduce the level of protection" to judgment holders.
- √ Bonding cap legislation was unsuccessful in Illinois and Colorado.

Minimum age:

- √ The California bill raising the minimum age to purchase tobacco products from 18 to 21, passed out of the Senate Health Committee and awaits a hearing in Senate Appropriations.
- √ A bill was introduced in the New Jersey Assembly that would increase the minimum age of purchase for tobacco products from 18 to 21.

- ✓ Legislation to increase the minimum age in Hawaii (18 to 21), Illinois (18 to 19) and Kansas (18 to 21) is dead for 2002.

Smoking restrictions:

- ✓ Alabama, Arizona, Connecticut, Hawaii, Illinois, Iowa, Maryland, Minnesota, Mississippi, New Hampshire and Washington defeated statewide smoking restriction bills.
- ✓ Preemption repeal in Connecticut died upon adjournment.
- ✓ A California Assembly bill that would have dramatically expanded the regulatory authority of the California Air Resources Board died in an Assembly floor vote.
- ✓ A comprehensive smoking restriction bill has been approved by the Delaware legislature and signed by the governor. The measure bans smoking in bars, restaurants, casinos and other places where the public is invited or permitted. Seventy-five percent of all hotel/motel rooms must be designated as non-smoking.
- ✓ The Florida Supreme Court ruled unanimously that the smoking ban amendment to the state constitution could go on the November ballot. The only public places exempted would be freestanding bars, outdoor restaurants and designated hotel rooms.
- ✓ Legislation was introduced in the New Jersey Senate that would prohibit smoking in common areas of indoor public places, including restaurants. The legislation exempts taverns, nightclubs, cabarets, and cigar bars. Preempts local laws currently in effect.
- ✓ The statewide restaurant smoking ban has passed the New York Assembly. Legislation in the New York Senate to prohibit smoking in restaurants was amended to allow smoking in separate rooms of restaurants with no bar area. The Senate and Assembly are negotiating but are at odds on the issue of small restaurants. The legislation did not pass before the summer recess. Legislation passed the New York Assembly that would prohibit smoking in day care facilities. The legislation now goes to the Senate for further action. Legislation passed the New York Assembly that would authorize the state Commissioner of Education to prohibit smoking, eating and drinking on any transportation facility used by students regardless of the presence of students.
- ✓ An ordinance was proposed in New York City that would remove the current exemption for restaurants with fewer than 35 seats.
- ✓ Legislation was enacted in Oklahoma banning smoking in government-owned buildings and within 25 feet of entrances to these buildings.
- ✓ Oklahoma Governor Keating signed into law new Health Dept. crafted "emergency" smoking rules for the entire state. The law requires that a restaurant with over 50 seats choose to be totally smoking, totally non-smoking or provide enclosed and separately ventilated smoking sections if they want to serve both types of patrons. Bars, taverns and pool halls are under the same smoking restrictions. However, in a lawsuit filed by the Oklahoma Restaurant Association, a restraining order was sought against the Board of Health and the Governor to stop implementation of the rules. A Creek county (OK) judge has issued a temporary order prohibiting the state Health Department from enforcing the new regulations. A hearing on has been set for this week.
- ✓ The South Dakota passed statewide smoking restrictions.
- ✓ Boston Public Health Commission, working with 11 other area health commissions, is considering a proposal banning smoking in all restaurants and bars.
- ✓ Statewide smoking ban bills are being considered in New Jersey.

Tobacco liability:

- ✓ Missouri bill that would allow public and private medical facilities to recover un-reimbursed costs associated with treating sick smokers died on adjournment.

Gray market:

- ✓ Missouri Governor Bob Holden signed gray market legislation making, Missouri the 49th state with laws prohibiting the sale of gray market cigarettes.

Sales and marketing restrictions:

- ✓ Florida, Illinois, Maryland, New Mexico, South Carolina, Washington and West Virginia have defeated bills restricting self-service.
- ✓ Oklahoma and South Dakota defeated legislation to repeal laws that preempt municipalities from passing tobacco-

related ordinances that are more restrictive than state laws.

- √ Unfair cigarette sales act legislation failed in Alaska.
- √ Legislation in Connecticut that would have increased the minimum mark-up on cigarettes from 8% to 12% died pursuant to legislative rule.
- √ The Hawaii legislature passed a resolution that requests the state Department of Health to convene a task force to study the feasibility of having the department regulate tobacco products as a harmful consumer product.
- √ Concord, Massachusetts defeated a warrant article to ban the sale of all tobacco products.
- √ Legislation was held in the Assembly Economic Development Committee in New York that would make it unlawful to sell filtered cigarettes in the state unless the filter is biodegradable. **No movement.**
- √ A bill was introduced in New York that would limit the sale of tobacco products to tobacco-only stores and to stores that sell liquor for consumption off-premises. **No movement.**
- √ Legislation passed in Pennsylvania requiring all tobacco products to be kept within the line-of-sight of a store employee. **Effective 7/1/02**
- √ The Ohio Legislature has passed legislation to require vertical drivers licenses for any person under the age of 18 to assist retailers in determining if customers are old enough to buy tobacco products. A similar license has also been developed for the purchase of alcohol. **Similar legislation is pending in Michigan.**
- √ Legislation passed the New York Senate that would establish a point system for illegal sales to minors. After accumulation of three points, a retailer's license would be suspended for 6 months. The bill now goes to the Assembly for further action.