

## Legislative Update: September 14, 2015

The 2015 legislative session has come to a close, and with it, the deadline for regular session bills to make it out of the Legislature and to the Governor's desk. The deadline for the Governor to either sign or veto bills is October 11<sup>th</sup>. This is the first year of a two year legislative session, so any tobacco-related bills introduced in regular session that did not pass out of the Legislature will still have another opportunity to do so next year.

In addition to the regular legislative session, Governor Jerry Brown has convened a special legislative session to address health care spending. Special sessions (i.e., "extraordinary") differ from regular legislative sessions because there is no specific schedule for special sessions and they can be called by the Governor intermittently to deal with specific issues or topics. During this special session, fifteen tobacco-related bills (seven of which were jointly introduced in both the Senate and Assembly) have been introduced and are described in more detail.

Even though regular session is over, special session is still open and these bills could be voted upon at any time, depending upon when legislative leadership decides to do so.

This legislative update includes bill status and summaries for the active tobacco-related bills in the 2015 regular and special sessions. This update also contains background information for specific bills with positions by the major voluntary health organizations (i.e., American Lung Association in California, American Cancer Society Cancer Action Network and American Heart Association).

### **REGULAR SESSION**

#### **THREE BILLS ARE PENDING BEFORE THE GOVERNOR**

- AB 216 (Garcia – D, Bell Gardens) – Product Sales to Minors: Vapor Products
- AB 768 (Thurmond – D, Richmond) – Tobacco Free Baseball Act
- AB 1162 (Holden – D, Pasadena) – Medi-Cal Cessation

#### **ONE BILL IS ON THE INACTIVE FILE AND WILL NOT MOVE FORWARD THIS YEAR**

- AB 1278 (Gray – D, Merced) – Cigarettes and Tobacco Products: Identification Requirements

### **SPECIAL SESSION**

#### **FIFTEEN BILLS HAVE BEEN INTRODUCED**

- SB 5 X2 (Leno – D, San Francisco) & AB 6 X2 (Cooper – D, Elk Grove ) – Electronic Cigarettes
- SB 6 X2 (Monning – D, Carmel) & AB 7 X2 (Stone – D, Scotts Valley) – Smoking in the Workplace
- SB 7 X2 (Hernandez – D, Azusa) & AB 8 X2 (Wood – D, Healdsburg ) – Tobacco Products: Minimum Legal Age
- SB 8 X2 (Liu – D, La Canada Flintridge) & AB 9 X2 (Thurmond – D, Richmond; Nazarian – D, Sherman Oaks) – Tobacco Use Programs
- SB 9 X2 (McGuire – D, Healdsburg) & AB 10 X2 (Bloom – D, Santa Monica) – Local Taxes: Authorization: Cigarettes and Tobacco Products
- SB 10 X2 (Beall – D, San Jose) & AB 11 X2 (Nazarian – D, Sherman Oaks) – Cigarette and Tobacco Product Licensing: Fees and Funding
- SB 13 X2 (Pan – D, Sacramento) & AB 16 X2 (Bonta – D, Alameda) – Public health: cigarette and tobacco products: electronic cigarettes: taxes: California Health Care, Research, and Prevention Tobacco Tax Act of 2015
- SB 14 X2 (Hernandez – D, Azusa) – Tobacco: electronic cigarettes: taxes: managed care organization provider tax: in-home supportive services.



# REGULAR SESSION

## THREE BILLS ARE PENDING BEFORE THE GOVERNOR

### [AB 216](#) (Garcia – D, Bell Gardens) – Product Sales to Minors: Vapor Products

Assembly Bill 216 would prohibit the sale of any device intended to deliver a non-nicotine product in a vapor state to a person under 18 years of age.

**Amendments:** AB 216 was amended to exclude a drug or medical device that has been approved by the FDA.

**Status:** AB 216 was approved by the Assembly Committee on Governmental Organization on April 22, 2015 by a vote of 20-0 (1 member absent/did not vote). On April 29, 2015, the bill was heard before the Assembly Appropriations Committee and passed by a vote of 17-0, and was approved on the Assembly Floor (77-0 with 3 members absent/did not vote). AB 216 was approved before the Senate Health Committee and Senate Floor, and now awaits the Governor's action.

### [AB 768](#) (Thurmond – D, Richmond) – Tobacco Free Baseball Act

Assembly Bill 768 would prohibit the use of tobacco products in a baseball stadium, which includes the physical area in which a professional, collegiate, high school, or other organized baseball game or practice is occurring.

**Background:** The American Lung Association in California, American Cancer Society Cancer Action Network and American Heart Association support this bill.

**Amendments:** On April 27, 2015, amendments were added to AB 768 during the Assembly Committee on Governmental Organization hearing to prohibit the use and possession of smokeless tobacco on the playing field during a professional baseball game or practice, and only at professional baseball venues. On May 27, 2015, an additional amendment was accepted during the Assembly Appropriations Committee which specified that AB 768's provisions will not supersede a conflicting provision relating to smokeless tobacco in a collective bargaining agreement that is in effect on January 1, 2016, but will only apply to a collective bargaining agreement that is executed on or after January 1, 2016. Later this amendment was replaced on the floor of the Assembly with a delayed implementation provision, and adds anti-preemption language.

**Status:** AB 768 was approved by the Assembly Committee of Arts, Entertainment, Sports, Tourism, and Internet Media by a vote of 4-2, and the Assembly Committee on Governmental Organization by a vote of 15-5 (1 members absent/did not vote). AB 768 passed out of the Assembly Appropriations Committee and was approved on the Assembly Floor (53-25 with 2 members absent/did not vote). In the Senate, AB 768 passed out of the Senate Governmental Organization Committee (7-3 with 3 members absent/did not vote) and the Senate Labor and Industrial Relations Committee. AB 768 was approved by the Senate Floor, and now awaits the Governor's action.

### [AB 1162](#) (Holden – D, Pasadena) – Medi-Cal Cessation

Assembly Bill 1162 would ensure that tobacco cessation services are covered benefits under the Medi-Cal program. The bill would require that those services include, at a minimum, unlimited quit attempts and a 90-day treatment regimen of any medication approved by the Federal Food and Drug Administration for tobacco cessation.

**Background:** The American Lung Association in California is co-sponsoring this bill with the American Cancer Society Cancer Action Network and American Heart Association.

**Amendments:** During the Senate Health Committee, accepted amendments specified that tobacco cessation services would cover, at a minimum, four quit attempts and without prior authorization for four of the seven FDA-approved medications.

**Status:** AB 1162 was approved by the Assembly Committee on Health on April 21, 2015 by a vote of 18-0 (1 member absent/did not vote). AB 1162 passed the Assembly Appropriations Committee by a vote of 12-5 and was approved on the Assembly Floor (67-12 with 1 member absent/did not vote). On July 8, 2015, AB 1162 was approved unanimously in the Senate Health Committee and after being placed on the suspense file of the Senate Appropriations Committee, passed out of Committee with technical amendments. AB 1162 was approved by the Senate Floor, and now awaits the Governor's action.

## **ONE BILL IS ON THE INACTIVE FILE AND WILL NOT MOVE FORWARD THIS YEAR**

### **AB 1278 (Gray – D, Merced) – Cigarettes and Tobacco Products: Identification Requirements**

Existing law requires a person selling or distributing tobacco products directly to a consumer in California, either through the United States Postal Service or a package delivery service, to verify that the purchaser or recipient of the product is 18 years of age or older. Assembly Bill 1278 would permit an identification card issued by the United States Armed Forces to meet the age verification requirements as proof of age, even if the identification card lacks a physical description, but includes the date of birth and a photo.

**Status:** AB 1278 was approved by the Assembly Committee on Governmental Organization on May 6, 2015 by a vote of 18-0 (3 members absent/did not vote). The bill was heard on the Assembly Floor on May 14, 2015 and passed by a vote of 78-0 (2 members absent/did not vote). AB 1278 was heard in the Senate Committee on Health on Wednesday, June 10, 2015 and was approved by a vote of 8-0. This bill was placed on the inactive file on the Senate Floor and will not be moving forward this legislative year.

## **SPECIAL SESSION**

### **FIFTEEN BILLS HAVE BEEN INTRODUCED**

#### **SB 5 X2 (Leno – D, San Francisco) & AB 6 X2 (Cooper – D, Elk Grove) – Electronic Cigarettes**

These bills would change the STAKE Act's definition of tobacco products to include electronic devices, such as electronic cigarettes, requiring retailers to obtain a state license with the Board of Equalization (BOE). It will also include electronic cigarettes in California's smokefree laws and require child-resistant packaging for these products.

**Background:** The American Lung Association in California is co-sponsoring these bills with the American Cancer Society Cancer Action Network and American Heart Association.

**Status:** SB 5 X2 was heard before the Senate Public Health and Developmental Services Committee, where it was passed by a vote of 9-3 (1 absent/did not vote). It was approved by the Senate Fiscal Committee with a vote of 5-2, and was taken up by the Senate Floor on August 27, passing by a vote of 25-13 (2 absent/did not vote). AB 6 X2 was approved by the Assembly Public Health and Developmental Services Committee by a vote of 10-2 (1 absent/did not vote), being referred to and passing out of the Assembly Fiscal Committee.

#### **SB 6 X2 (Monning – D, Carmel) & AB 7 X2 (Stone – D, Scotts Valley) – Smoking in the Workplace**

These bills expand the prohibition on smoking in a place of employment to eliminate most of the specified exemptions that permit smoking in certain work environments, such as owner operated businesses, hotel lobbies, bars and taverns, banquet rooms, warehouse facilities, and employee break rooms.

**Background:** The American Lung Association in California, the American Cancer Society Cancer Action Network and American Heart Association support these bills.

**Status:** SB 6 X2 was heard before the Senate Public Health and Developmental Services Committee, where it was passed by a vote of 9-2 (2 absent/did not vote). It was approved by the Senate Floor on August 27, passing by a vote of 24-13 (3 absent/did not vote). AB 7 X2 was approved by the Assembly Public Health and Developmental Services Committee by a vote of 10-3, being referred to and passing out of the Assembly Fiscal Committee.

**[SB 7 X2](#) (Hernandez – D, Azusa) & [AB 8 X2](#) (Wood – D, Healdsburg) – Tobacco Products: Minimum Legal Age**

These bills will raise the legal minimum age of purchase for tobacco products from 18 to 21 and severely limit teen access to these products.

**Background:** The American Lung Association in California is co-sponsoring these bills with the American Cancer Society Cancer Action Network and American Heart Association.

**Status:** SB 7 X2 was heard before the Senate Public Health and Developmental Services Committee, where it was passed by a vote of 9-3 (1 absent/did not vote). It was approved by the Senate Fiscal Committee with a vote of 5-2, and was taken up by the Senate Floor on August 27, passing by a vote of 25-11 (4 absent/did not vote). AB 8 X2 was approved by the Assembly Public Health and Developmental Services Committee by a vote of 9-4, being referred to and passing out of the Assembly Fiscal Committee.

**[SB 8 X2](#) (Liu – D, La Canada Flintridge) & [AB 9 X2](#) (Thurmond – D, Richmond; Nazarian – D, Sherman Oaks) – Tobacco Use Programs**

These bills require all school districts and county offices of education (COEs) to adopt and enforce a tobacco-free campus policy.

**Background:** The American Lung Association in California, the American Cancer Society Cancer Action Network and American Heart Association support these bills.

**Status:** SB 8 X2 was heard before the Senate Public Health and Developmental Services Committee, where it was passed by a vote of 9-3 (1 absent/did not vote). It was approved by the Senate Fiscal Committee with a vote of 5-0 (2 absent/did not vote), and was taken up by the Senate Floor on August 27, passing by a vote of 27-10 (4 absent/did not vote). AB 9 X2 was approved by the Assembly Public Health and Developmental Services Committee by a vote of 12-0 (1 absent/did not vote).

**[SB 9 X2](#) (McGuire – D, Healdsburg) & [AB 10 X2](#) (Bloom – D, Santa Monica) – Local Taxes: Authorization: Cigarettes and Tobacco Products**

These bills would authorize counties to adopt local tobacco taxes. This bill specifies that local county taxes that are adopted can apply to incorporated areas within the county.

**Background:** The American Lung Association in California, the American Cancer Society Cancer Action Network and American Heart Association support these bills.

**Status:** SB 9 X2 was heard before the Senate Public Health and Developmental Services Committee, where it was passed by a vote of 9-2 (2 absent/did not vote). It was approved by the Senate Floor on August 27, passing by a vote of 23-15 (2 absent/did not vote). AB 10 X2 was approved by the Assembly Public Health and Developmental Services Committee by a vote of 9-4.

**[SB 10 X2](#) (Beall – D, San Jose) & [AB 11 X2](#) (Nazarian – D, Sherman Oaks) – Cigarette and Tobacco Product Licensing: Fees and Funding**

These bills would establish an annual Board of Equalization (BOE) tobacco licensing fee that is sufficient to cover the cost of administering and enforcing the program and requires the BOE to conduct a report to determine if the fee established in the bill is sufficient to cover those costs.

**Background:** The American Lung Association in California, the American Cancer Society Cancer Action Network and American Heart Association support these bills.

**Status:** SB 10 X2 was heard before the Senate Public Health and Developmental Services Committee, where it was passed by a vote of 9-3 (1 absent/did not vote). It was approved by the Senate Fiscal Committee with a vote of 5-2, and was taken up by the Senate Floor on August 27, passing by a vote of 24-15 (1 absent/did not vote). AB 11 X2 was approved by the Assembly Public Health and Developmental Services Committee by a vote of 9-4, being referred to and passing out of the Assembly Fiscal Committee.

**[SB 13 X2](#) (Pan – D, Sacramento) & [AB 16 X2](#) (Bonta – D, Alameda) – Public health: cigarette and tobacco products: electronic cigarettes: taxes: California Health Care, Research, and Prevention Tobacco Tax Act of 2015**

These bills would increase the state tobacco tax by a \$2 per pack tax on tobacco products.

**Background:** The American Lung Association in California, the American Cancer Society Cancer Action Network and American Heart Association support these bills.

**Status:** SB 13 X2 and AB 16 X2 were introduced on August 26.

**[SB 14 X2](#) (Hernandez – D, Azusa) – Tobacco: electronic cigarettes: taxes: managed care organization provider tax: in-home supportive services.**

This bill proposes to raise the tobacco tax by \$2, includes electronic cigarettes in the tax, as well as deals with other outstanding policy issues (i.e., overcoming the loss of Medi-Cal revenue resulting from the reversal of the Managed Care Organization tax, low Medi-Cal provider rates, and rate reduction for in-home supportive services).

**Background:** The American Lung Association in California, the American Cancer Society Cancer Action Network and American Heart Association support this bill.

**Status:** SB 14 X2 was introduced on September 9, and was heard before the Senate Public Health and Developmental Services Committee the following day. It passed out of Committee with a vote of 9-4, and was later approved in Senate Appropriations by a vote of 5-2.

The Center's Bill Tracker ([www.center4tobaccopolicy.org/bill-tracker/](http://www.center4tobaccopolicy.org/bill-tracker/)) can be used to track all bills throughout the 2015-2016 legislative session. The Bill Tracker contains up-to-date information with full summaries, status updates and other information about pertinent bills introduced in 2015.

The American Lung Association in California Center for Tobacco Policy & Organizing will be following bills and providing updates as the session progresses. You can find those updates [here](#).

*Center for Tobacco Policy & Organizing: September 14, 2015*

*If you have questions about this analysis, please contact Samantha Pellon ([Samantha.Pellon@lung.org](mailto:Samantha.Pellon@lung.org)) or Lindsey Freitas ([lindsey.freitas@lung.org](mailto:lindsey.freitas@lung.org)).*

*Sources: Copies of the legislation outlined above and vote information may be obtained at [www.leginfo.ca.gov/](http://www.leginfo.ca.gov/).*