

AB 71
(B&P Code 22970-22995)

It's Impact on Local Licensing

April Roeseler
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Things I abhor about AB 71

- ***Fails to create sustainable program***
 - No annual licensing fee on tobacco retailers or manufacturers
 - Program sunsets in just six years time (in 2010)
 - It will likely take at least two years to achieve compliance with the tobacco retailer licensing requirement

Things I abhor about AB 71

- ***Sales to minors penalty provisions are meaningless***
 - License suspension and revocation provisions for illegal tobacco sales to minors only go into effect in a year in which the statewide rate of illegal tobacco sales to minors is **13%** or greater
 - Healthy People 2010 Objectives calls for all states to achieve a sales rate of **5%** or less by 2010

Things I abhor about AB 71

- ***It is almost impossible to suspend or revoke a license***
 - Suspension - must have at least 4 convictions against the retailer of PC 308 or the STAKE Act in 12 months
 - Revocation - must have at least 8 convictions against the retailer of PC 308 or the STAKE Act in 24 months
 - PC 308 convictions are typically against a clerk
 - There are no “convictions” with the STAKE Act which is a civil not criminal law

Things I abhor about AB 71

■ ***Restricted Use of Databases***

- Limits access to the database of tobacco retailers to state and local law enforcement agencies only
- ABC has a public, searchable website of licensees--why the secrecy with the tobacco retailer database?
- Increases cost for public health departments for non-enforcement activities (e.g., direct mail outreach and surveillance activities)

Things I abhor about AB 71

- ***The definition of a retail location is insufficient***
 - "Section 22972 (a): Commencing June 30, 2004, a retailer shall have in place and maintain a license to engage in the sale of cigarettes and tobacco products. A retailer that owns or controls more than one retail location shall obtain a separate license for each retail location, but may submit a single application for those licenses."
 - AB 71 defines a retailer as someone who sells tobacco from a retail location. A retail location is defined as a building (including a personal residence) or a vending machine [Section 22970.3 (e) & (f)]. Therefore, the author has not prohibited mobile vending. In fact, it is implied that if you sell tobacco in a manner other than from a building or vending machine (e.g., from an ice cream truck or car), you are not subject to the tobacco retail licensing requirements.

Things I abhor about AB 71

- ***DHS is required to provide tobacco retailers and their employees training upon a first conviction of PC 308 or the STAKE Act***
 - No reporting requirements to BOE or DHS about STAKE or PC 308 convictions
 - Unknown cost, no funding provided
 - Merchant education is not an effective intervention

The thing I love about AB 71

- 22971.3 Nothing in this division preempts or supersedes any local tobacco control law other than those related to the collection of state taxes. Local licensing laws may provide for the suspension or revocation of the local license for any violation of a state tobacco control law.

AB 71's Use of Licensing as a means to Control Illegal Tobacco Sales to Minors is Abysmal

- Anti-preemption language and the automatic sunset of the program are a cry for local action
- We need to expose and hammer away at the huge industry "*gimmes*" in AB 71

Making the Case for Local Licensing

- Other states use dual state/local licensing models
- The license fee in AB 71 is low compared to many state licenses
- License fee in AB 71 is one-time only; could “forgive” the \$100 in a local licensing scheme

Making the Case for Local Licensing

- Need to set standards for license suspension and revocation locally, rather than use a state imposed standard that appears to be crafted by the tobacco industry
- Need to create a sustainable program
- Need to address mobile vendors, sales at bars and casinos, removal of tobacco ads when there is a suspension or revocation

What Gray Davis Said about AB 71

- “I am strongly opposed to the provisions of this measure that allow a vendor to remain licensed by the State to sell tobacco after they have been sanctioned numerous times for selling cigarettes to minors. I urge the Legislature to enact tougher legislation next year that enables the state to aggressively monitor and enforce laws prohibiting tobacco sales to minors and specifies stronger penalties on those who violate the law.”

The Call to Action is Clear

- AB 71 fails to protect kids from stores that repeatedly sell tobacco to minors
- We each have to ask ourselves whether the political climate in Sacramento lends itself to a fix at the state level as was indicated by Gov. Davis or whether local action will more likely move us forward