

City of Sacramento
State Legislature

10

B I L L R E F E R R A L

DATE: January 31, 1990 COMMITTEE ACTION: _____

TO: _____ DATE: _____

FROM: KENNETH EMANUELS, LEGISLATIVE ADVOCATE

REPLY NO LATER THAN: _____

A.B. _____, As Amended _____ * Author _____

S.B. 1837, As Amended 1-24-90 * Author Senator Hart

*Date of introduction or latest amendment

Please review the attached measure to determine its effect upon the City of Sacramento and complete the following questions as appropriate. During your analysis of this measure, if questions arise, please feel free to contact Ken Emanuels at 444-6789, FAX 444-0303, (1400 K Street, Suite 306, Sacramento, CA 95814.) This questionnaire should be returned to the City Attorney's Office for presentation to the Council Committee on Law and Legislation. PLEASE LEAVE THE BILL ATTACHED TO THIS FORM.

NO RECOMMENDATION. If you think no Committee action on this bill should be taken, either because the bill is not of sufficient importance to the City or for any other reason, please mark here, do not fill out the rest of the form, and return this form to the City Attorney's Office. _____.

PLEASE TYPE YOUR RESPONSE

1. Briefly describe the provisions of the bill (attach additional sheets if necessary).

Would make it a public offense to sell tobacco products from a vending machine with maximum fine of \$1,000. Excepts vending machines located where minors are prohibited.

2. This measure should be: (Please circle desired position)

Supported

Opposed

Supported if Amended

Placed on Watch List

Other (explain)

3. Please explain your reasons for the above determination, including how this measure effects your Department and the fiscal impact of this measure on the City. Please make your comments in a format that can be used in a letter to state officials. (Continue on next page or attach additional sheets if necessary.)

In 1988, the City Council enacted an ordinance prohibiting distribution of tobacco products to minors and purchase of tobacco products by minors. The most difficult aspect to regulate was sales

(Continue answer to Question No. 3 here) from vending machines where the age of purchasers is not always known and purchasers are not always seen. This bill would totally prohibit sales from vending machines accessible to minors so access by minors to machines would no longer be a thorny problem for vendors or the City Council.

4. Specify the City's legislative policy guideline(s) applicable to this measure (if any).

5. If this measure could be amended to either improve its favorable aspects or to minimize its adverse aspects, which amendments would you propose?

6. List known support or opposition to this measure by groups with which you are familiar and include addresses and phone numbers, if known. League of California Cities position:

7. Does this bill involve a State-mandated local program? If so, does the bill contain a State-mandated waiver, or an appropriation for allocation and disbursement to local agencies pursuant to Revenue and Taxation Code Section 2231?

State-mandated waiver/creates a new crime

8. Using a rating scale of 1 to 10 (with 10 as the most important), how important do you think this bill is to the City of Sacramento? 7

FORM COMPLETED BY: Diane B. Balter
Deputy City Attorney
449-5346

DATE: 3/5/90

Introduced by Senator Hart

January 24, 1990

An act to add Section 308.5 to the Penal Code, relating to tobacco products.

LEGISLATIVE COUNSEL'S DIGEST

SB 1837, as introduced, Hart: Tobacco products: distribution from vending machines.

Existing law makes the distribution or furnishing of tobacco products to minors a misdemeanor.

This bill, in addition and with limited exceptions, would make it a public offense punishable by a fine of up to \$1,000 for any person, firm, or corporation to sell or distribute tobacco products from a vending machine, as defined.

Because the bill would create a crime, it would constitute a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 308.5 is added to the Penal Code,
- 2 to read:
- 3 308.5. (a) Any person, firm, or corporation which
- 4 sells or distributes tobacco products from a vending
- 5 machine, as defined in Section 17571 of the Business and
- 6 Professions Code, shall be guilty of a public offense,

1 punishable by a fine of up to one thousand dollars
2 (\$1,000).

3 (b) Subdivision (a) shall not apply to any of the
4 following:

5 (1) In areas where persons under the age of 18 years
6 are prohibited.

7 (2) In any club, as defined in Section 23037 or 23451 of,
8 or Sections 23425 to 23429, inclusive, of, the Business and
9 Professions Code.

10 (3) In areas set aside for employees 18 years of age or
11 older which are not accessible to the general public.

12 SEC. 2. No reimbursement is required by this act
13 pursuant to Section 6 of Article XIII B of the California
14 Constitution because the only costs which may be
15 incurred by a local agency or school district will be
16 incurred because this act creates a new crime or
17 infraction, changes the definition of a crime or infraction,
18 changes the penalty for a crime or infraction, or
19 eliminates a crime or infraction. Notwithstanding Section
20 17580 of the Government Code, unless otherwise
21 specified in this act, the provisions of this act shall become
22 operative on the same date that the act takes effect
23 pursuant to the California Constitution.