



Major Tobacco-Related Bills Supported by TOFCO During the 2005 Legislative Session

House Bill 2024

Background and Summary of Bill: When Tobacco companies agreed to pay the various states' billions of dollars to settle tobacco-related lawsuits, the resulting agreement became known as the Master Settlement Agreement (MSA). In Oregon, not one penny of the MSA has ever been spent on programs to educate Oregonians about the dangers of tobacco use or to help smokers quit. Instead, the Legislature has used all MSA funds to help pay for the Oregon Health Plan and other state programs.

House Bill 2024 would have required that 10% of MSA funds be expended on programs designed to educate people about the dangers of tobacco or help people quit tobacco use.

Action Taken on the Bill: On April 13th the bill received a public hearing in the House Health and Human Services Committee, but legislators did not vote the bill out of committee citing concerns about the impact of the bill on the 2005-2007 budget.

House Bill 2024 remained in the House Health & Human Services Committee upon adjournment.

House Bill 2048

Background and Summary of Bill: During the 2003 Legislative Session a compromise tax package was passed and eventually referred to the ballot by anti-tax organizations. The package became Ballot Measure 30, which was defeated by voters on February 3rd, 2004. A 10-cent tobacco tax dedicated to the Oregon Health Plan that was first passed in 1993 was included in the tax package that was referred to voters. When Measure 30 was defeated, this tax expired and Oregon became the first state in the nation to decrease its tobacco tax.

A broad coalition of health organizations, hospitals, non-profits, and the members of TOFCO formed the Tobacco Tax Restoration Coalition during the 2005 Session in order to restore the 10-cent tax. Restoration of the tax, which had passed repeatedly with bi-partisan support, became caught up in the political infighting of the 2005 Session. House Speaker Karen Minnis pledged that no new Revenue proposals would pass out of the House in the 2005 Session, effectively ending any chance of the 10-cent tobacco tax being restored.

Action Taken on the Bill: On June 27th the House Democrats made a floor motion to withdraw the bill from the Revenue Committee and vote on the bill after the efforts of the Tobacco Tax Restoration Coalition were unable to even produce a hearing on House Bill 2048's merits. All 32 House Republicans present voted "No" and no further action was taken on the Bill.

House Bill 2048 remained in the House Revenue Committee upon adjournment.

House Bill 2836

Background and Summary of Bill: Oregon passed a landmark Clean Indoor Air Act during the 2001 Legislature that effectively ended smoking in approximately 95% of Oregon workplaces. It allowed only bars, bowling alleys, and a few other workplaces to allow smoking on the premises. As the Act went into effect, it became clear that some technical changes needed to be made to the bill to clean up a few loopholes and items inadvertently left out of the original bill.

House Bill 2836 specifically addressed the following items: it increased fines for violations of the act from \$50 to \$500 per occurrence, it required employers to provide non-smoking hotel rooms and vehicles for non smoking employees on work-related trips, it required lounges where smoking takes place to be enclosed (i.e. no saloon-style doors), and it attempted to crackdown on “Hookah” bars by requiring 85% of business revenue to be generated by tobacco or tobacco product sales.

Action Taken on the Bill: On April 6th the bill received a public hearing in the House Health and Human Services Committee. Due to intense lobbying by the Oregon Restaurant Association, the bill did not receive a vote.

House Bill 2836 remained in the House Health & Human Services Committee upon adjournment.

House Bill 3496

Background and Summary of Bill: During the 2003 Legislative Session, Legislators cut funding to Oregon’s Tobacco Prevention and Education Program (TPEP) by over 50%. In his proposed budget for the 2005-2007 biennium, Governor Kulongoski proposed cutting funding for TPEP by 66%. Budget writers in the House and Senate eventually added \$2 million dollars to the Governor’s proposed budget, resulting in the equivalent of a 53% cut from funding levels prescribed by voters when they passed Ballot Measure 44 in 1996.

House Minority Leader Jeff Merkley drafted House Bill 3496 in response to the continued raids on the TPEP budget. The bill would have required that all of the tobacco tax money meant to go to the TPEP budget (approximately \$15 million dollars for the 05-07 biennium) be allocated by statute, thereby preventing the Legislature from raiding the TPEP fund again.

Action Taken on the Bill: On June 27th the House Democrats made a floor motion to withdraw the bill from the House Budget Committee and vote on the bill after Rep. Merkley and others were unable to get the Bill a hearing. All 32 House Republicans present voted “No” and no further action was taken on the Bill.

House Bill 5148

Background and Summary of Bill: The DHS budget (House Bill 5148) contained the funding for the Tobacco Prevention and Education Program (TPEP).

Created with the passage of Ballot Measure 44 in 1996, Oregon’s Tobacco Prevention and Education Program has made tremendous strides toward educating the public about the dangers of tobacco use and decreasing consumption of tobacco products in Oregon. Each biennium, TPEP is supposed to be funded with a portion (3-cents of the 30-cent per pack tobacco tax) of the revenue generated by the Measure 44 cigarette tax. For the 2005-2007 budget, that ended up being the equivalent of \$14.4 million dollars.

During the 2003 Session the Legislature raided the TPEP fund, eventually taking over 50% of the money and spending it on other state programs like the Oregon Health Plan. Governor Kulongoski's proposed budget for 2005-2007 again raided the TPEP fund and spent 66% of the funds on the Oregon Health Plan.

After an intense lobbying and grassroots effort initiated by TOFCO and its allies, Legislative budget writers added back \$2 million dollars to the program. Unfortunately, we were unable to convince legislators to restore the full Measure 44 allocation.

Even with positive editorials in newspapers around the state and a clear voter mandate, the Democratic and Republican Leadership in both the House and Senate choose to ignore the will of Oregonians and spend about 53% of the funds designated for TPEP on other programs.

Action Taken on the Bill: The bill allocated \$6.9 million dollars for TPEP (out of \$14.4 million that the program should be receiving under Measure 44). House Bill 5148 passed the Senate on a 23-7 vote on July 29th and passed the House on a 36-24 vote July 30th.

Senate Bill 544

Background and Summary of Bill: Oregon's Clean Indoor Air Act passed during the 2001 Legislative Session was a victory for tobacco control advocates, but the Oregon Restaurant Association, Big Tobacco, and other lobbying groups were able to wrangle concessions out of the bill before former Governor Kitzhaber would sign it into law. Specifically, exemptions were included that allowed smoking in bars and taverns, lounges in restaurants, bingo halls, and bowling alleys. Combined, these exemptions mean that over 33,000 Oregonians are exposed to second-hand smoke at their place of employment. The original Act also included a "pre-emption" clause that prevents local governments from passing smoking ordinances that go beyond the scope of the Oregon statute (cities like Eugene and Corvallis had already passed laws making all workplaces smokefree; these cities were grandfathered into the Act).

Senate Bill 544 was originally written to get rid of the "pre-emption" clause and end the smokefree exemptions for bars, taverns, some restaurants, bowling alleys, and bingo halls. With stiff opposition from the Oregon Restaurant Association and behind the scenes lobbying of Big Tobacco, the bill as originally written did not have enough support to pass the Senate. TOFCO and its allies attempted to rally support for amended versions of the bills that would only remove some of the exemptions, such as bowling alleys and bar-restaurant combos.

Our efforts to convince Senate President Peter Courtney and Senate Majority Leader Kate Brown to make this piece of legislation a priority for the Senate Democrats were not successful.

Action Taken on the Bill: A public hearing was held in the Senate Judiciary Committee on March 10th. No further action was taken on the bill during the Session.

Senate Bill 738

Background and Summary of Bill: Each year in the United States, there are thousands of preventable deaths and injuries from fires that were started by improper disposal and extinguishing of cigarettes. Some states, most notably New York, have responded by requiring cigarette manufacturers to produce and sell only "self-extinguishing" cigarettes within their jurisdiction.

Unlike pipes or cigars, which go out if not puffed on, commercially mass-produced cigarettes continue to burn once lit; igniting beddings, upholstery, and other flammable materials. In 2001, "smokers' carelessness" resulted in 31,200 fires and 830 deaths - 60 of them children. House Bill 738 would require cigarette manufacturers to produce and sell only these "fire-safe" cigarettes in Oregon. TOFCO Board President Chuck Tauman and a group of retired firefighters led the efforts to get this bill passed.

Action Taken on the Bill: The Senate passed the bill on June 29th on a 21-8 vote. Despite tremendous lobbying and supportive news editorials, House Speaker Karen Minnis refused to allow the bill to come to the floor for a vote.

The intense lobbying of the Speaker by tobacco interests paid off and the bill remained in the House State and Federal Affairs Committee upon adjournment.

House Bill 3500 (Not a TOFCO Bill)

Background and Summary of Bill: While TOFCO and its partners did not choose to support House Bill 3500, it is important to acknowledge its introduction.

Rep. Billy Dalto introduced the bill as a means of overhauling Oregon's system of providing state healthcare coverage and increasing funding for children's and low-income healthcare. The Bill would raise cigarette taxes 60-cents per pack over a number of years and spend 94% of the proceeds on public healthcare. The other 6% of the funds would go toward tobacco prevention and education efforts, adding about \$10 million dollars to TPEP's funding every biennium.

TOFCO and our partners did not support the bill, as explained below in an excerpt from an e-mail sent out by Courtni Dresser at the American Cancer Society:

"The American Cancer Society, the American Heart Association, the American Lung Association of Oregon and the Tobacco Free Coalition of Oregon met earlier today to discuss HB 3500.

At this time, the way HB 3500 is written; we are unable to endorse the bill.

There are two specific reasons:

- 1) It is our general policy to support cigarette tax increases that have a 90/10 split. In other words, we support 90% of the revenue going to health care for low income Oregonians and 10% going to tobacco prevention and education. At this time only 6% is going to tobacco prevention in HB 3500.*
- 2) Over the last two sessions the tobacco reduction account, created by the voters through Measure 44, has been raided and monies intended for one purpose have gone to another. Without a protection clause written into HB 3500 it would be very difficult to win this measure. It would be easy for the opposition to say that "Legislators will not spend the money the way you intend it to be spent" and that would be difficult to defend without a super-majority clause within the bill to protect the tobacco program".*

For Additional Information About these bills or the 2005 Legislative Session:

Contact Morgan Allen at the Tobacco-Free Coalition of Oregon. 503-238-7706 or morgan@tobaccofreeoregon.org