



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Proposed Initiative for Tobacco Control Regulations

MEETING DATE: April 6, 1994

PREPARED BY: City Attorney

RECOMMENDED ACTION: Consider adopting Resolution No. 94-39.

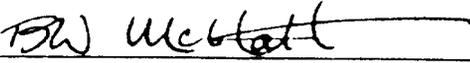
BACKGROUND INFORMATION: In 1990, the Lodi City Council adopted one of the most stringent tobacco control ordinances in the State of California. The Ordinance was subject to referendum, and was approved by the voters in November of 1990. Since that time, it has served as a model for similar ordinances all over the United States and in Canada.

There is now pending in California an Initiative titled the "California Uniform Tobacco Control Act" which would preempt local ordinances on this topic. Serious concern has been expressed that in doing so, the State measure would be substantially weaker than many local ordinances.

It has been requested by Councilmember Randy Snider that the attached Resolution be adopted in opposition to this Initiative.

FUNDING:

Respectfully submitted,



Bob McNatt
City Attorney

BM:pn

CCSMOKE.INT/TXTA.01V

APPROVED

THOMAS A PETERSON
City Manager



recycled paper

RESOLUTION NO. 94-5

A RESOLUTION OF THE LODI CITY COUNCIL
IN OPPOSITION TO THE CALIFORNIA UNIFORM
TOBACCO CONTROL ACT INITIATIVE

WHEREAS, tobacco use is responsible for the death of over 400,000 people every year and is the number one cause of death in the United States; and

WHEREAS, Environmental Tobacco Smoke (ETS) has been categorized as a cancer causing substance by the Environmental Protection Agency; and exposure to sidestream or second hand smoke kills an estimated 40,000 persons every year; and

WHEREAS, the State of California as well as many counties and municipalities conduct aggressive public education campaigns to discourage tobacco use, particularly among children; and

WHEREAS, the City of Lodi passed a smoking control ordinance in 1990 which bans smoking in most indoor public places in order to protect people against exposure to ETS; and

WHEREAS, an Initiative is being circulated mistitled the California Uniform Tobacco Control Act which would repeal the local smoking control ordinance passed in the City of Lodi and replace it with a state wide law which would could permit smoking in every restaurant and workplace in the State; and

WHEREAS, this Initiative is being sponsored by Philip Morris, the largest cigarette manufacturing company in the world, and they do not deny it; and

WHEREAS, the Initiative prohibits local government from ever passing any tobacco control legislation in the future, and prohibits any organization, except local law enforcement, from monitoring the illegal sale of cigarettes to minors through Youth Tobacco Purchase Surveys or "sting" operations utilizing minors attempting to purchase tobacco; and

WHEREAS, the ventilation standards adopted in the Initiative for application to indoor smoking will remove the odor of smoke from the air, but they will not eliminate the cancer causing substances which pose the threat to public health; and

WHEREAS, the Initiative has not yet qualified for the ballot, and widespread public exposure of the tobacco industry's tactics and intentions may serve to discourage registered voters from signing the petition; and

WHEREAS, NOW THEREFORE BE IT RESOLVED that the City Council of the City of Lodi opposes this Initiative and urges residents not to sign the petition; and

BE IT FURTHER RESOLVED that the City of Lodi will take immediate steps to inform the residents of the impact of this initiative on the community and will forward a copy of this Resolution and smoking ordinances to the Chief Executive Officer of Phillip Morris: Mr. Michael Miles, Phillip Morris Companies, Inc., 120 Park Avenue, New York, New York 10017.

Dated: April 6, 1994

=====

I hereby certify that Resolution No. 94-34 was passed and adopted by the Lodi City Council in a regular meeting held April 6, 1994 by the following vote:

Ayes: Council Members -

Noes: Council Members -

Absent: Council Members -

Jennifer M. Perrin
City Clerk

94-34

March 30, 1994

To: Jennifer Perrin
From: Randy Snider
Re: Attached Resolution

If possible, I would like to see this resolution on the Council agenda for April 6th. The only other "WHEREAS" I can see in addition to the others is one that would refer to the fact that on November 7, 1990 the voters of the City of Lodi passed its own ordinance.

You might run this by Tom for his input as well. You may even want to remove some of the "WHEREAS'S".

Thanks

SAMPLE RESOLUTION

(City Council, Board of Supervisors, Board of Education or other use)

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WHEREAS, Environmental Tobacco Smoke (ETS) has been categorized as a cancer causing substance by the Environmental Protection Agency; and exposure to sidestream or second hand smoke kills an estimated 40,000 persons every year;

WHEREAS, the State of California as well as many counties and municipalities conduct aggressive public education campaigns to discourage tobacco use, particularly among children;

WHEREAS, (Name of City) passed a smoking control ordinance in (date) which bans smoking in (describe impact of ordinance) in order to protect people against exposure to ETS;

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WHEREAS, the Initiative has not yet qualified for the ballot, and widespread public exposure of the tobacco industry's tactics and intentions may serve to discourage registered voters from signing the petition;

NOW THEREFORE BE IT RESOLVED that the (Name of City, County or organization) opposes this initiative and urges residents not to sign the petition;

BE IT FURTHER RESOLVED that the (Name of City, County or organization) will take immediate steps to inform the residents of the impact of this initiative on the community and will forward a copy of this Resolution and smoking ordinances to the Chief Executive Officer of Phillip Morris: Mr. Michael Miles, Phillip Morris Companies, Inc., 120 Park Avenue, New York, New York 10017.

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IN OPPOSITION TO THE CALIFORNIA UNIFORM
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Dated: April 6, 1994

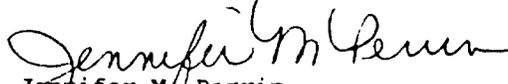
=====

I hereby certify that Resolution No. 94-34 was passed and adopted by the Lodi City Council in a regular meeting held April 6, 1994 by the following vote:

Ayes: Council Members - Davenport, Mann, Pennino, Snider
and Sieglock (Mayor)

Noes: Council Members - None

Absent: Council Members - None


Jennifer M. Perrin
City Clerk

CITY COUNCIL

JACK A. SIEGLOCK, Mayor
STEPHEN J. MANN
Mayor Pro Tempore
RAY C. DAVENPORT
PHILLIP A. PENNINO
JOHN R. (Randy) SNIDER

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
P.O. BOX 3006
LODI, CALIFORNIA 95241-1910
(209) 334-5634
FAX (209) 333-6795

THOMAS A. PETERSON
City Manager
JENNIFER M. PERRIN
City Clerk
BOB McNATT
City Attorney

April 8, 1994

Mr. Michael Miles
Chief Executive Officer
Phillip Morris Companies, Inc.
120 Park Avenue
New York, NY 10017

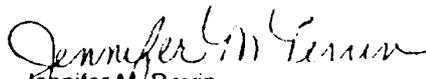
Re: **California Uniform Tobacco Control Act Initiative**

Dear Mr. Miles:

Enclosed please find certified copy of Resolution No. 94-34 entitled, "A Resolution of the Lodi City Council In Opposition to the California Uniform Tobacco Control Act Initiative" which was adopted at the City Council meeting of April 8, 1994.

Should you have any questions regarding this matter, please do not hesitate to give me a call.

Sincerely,


Jennifer M. Perrin
City Clerk

JMP

Enclosure

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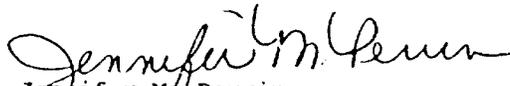
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I hereby certify that Resolution No. 94-34 was passed and adopted by the Lodi City Council in a regular meeting held April 6, 1994 by the following vote:

Ayes: Council Members - Davenport, Mann, Pennino, Snider
and Sieglock (Mayor)

Noes: Council Members - None

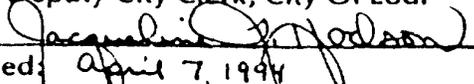
Absent: Council Members - None


Jennifer M. Perrin
City Clerk

94-34

The Foregoing Document Is Certified
To Be A Correct Copy Of The Original
On File In This Office.

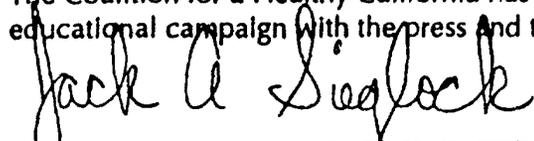
Jacqueline L. Hodson
Deputy City Clerk, City Of Lodi

By 
Dated: April 7, 1994

Statement by Mayor Sieglock opposing the Philip Morris Initiative:

Attached please find certified copy of Resolution No. 94-34 entitled, "A Resolution of the Lodi City Council In Opposition to the California Uniform Tobacco Control Act Initiative" which was adopted by the Lodi City Council at its April 6, 1994 regular City Council meeting (a copy of which was mailed to the Phillip Morris Companies, Inc.).

The Coalition for a Healthy California has permission to use this statement in its educational campaign with the press and the public regarding the Philip Morris Initiative.



Mayor Jack A. Sieglock, City of Lodi

Date April 12, 1994

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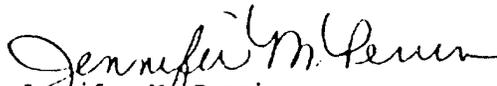
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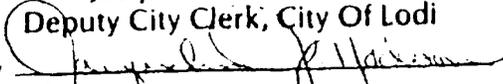
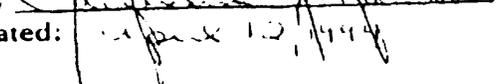
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- Noes: Council Members - None
- Absent: Council Members - None


Jennifer M. Perrin
City Clerk

94-34

The Foregoing Document Is Certified To Be A Correct Copy Of The Original On File In This Office.

Jacqueline L. Hodson
Deputy City Clerk, City Of Lodi
By 
Dated: 

Coalition for a Healthy California

April 5, 1994

The Honorable Jack A. Sieglock
City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

RECEIVED
APR 10 1994
Jennifer
please
copy
of resolution

Dear Mayor Sieglock:

The tobacco industry is at it again. This time the Philip Morris company, manufacturer of Marlboro cigarettes, is trying to qualify a statewide initiative that would repeal local anti-smoking laws and preempt local control. If the initiative qualifies for the ballot and passes, the smokefree ordinance in Lodi will be repealed and replaced with a weak statewide law that would permit smoking in nearly every restaurant and work place.

That's why the League of California cities has taken the unusual step of opposing the Philip Morris proposal before it qualifies for the ballot. (please see enclosed League statement)

We need your help to expose the tobacco industry's agenda and inoculate the public against their deceptive tactics in soliciting signatures. **Would you please issue a statement on the enclosed form that we could use in our efforts to keep the Philip Morris initiative off the ballot.** Your statement would be used in our public information packets and press materials over the next month, as we educate the public about the initiative.

Also enclosed is the first mailer from the tobacco industry front group, "Californians for Statewide Smoking Restrictions." This deceptive and misleading material is an affront to local governments which have conscientiously attempted to protect the health of their residents through responsible smokefree ordinances.

Please pen a strong and determined statement opposing the Philip Morris initiative and allow us to use it in our statewide efforts. We would hope you could find the opportunity to oppose the initiative in cooperation with your Council as well and have included a sample resolution and other background material for your consideration.

Thank you for your thoughtful consideration of our request.

Sincerely,



Carolyn Martin, Chair
Coalition for a Healthy California

Sponsoring Organizations

American Cancer Society, California Division, inc. • American Heart Association, California & Greater Los Angeles Affiliates
American Lung Association of California • California Association of Hospitals and Health Systems
California Dental Association • Planning and Conservation League

SAMPLE RESOLUTION

(City Council, Board of Supervisors, Board of Education or other use)

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LEGISLATIVE BULLETIN

League of California Cities

1400 K Street • Sacramento 95814 • (916) 444-8790

#12-1994

March 25, 1994

LEGISLATIVE ACTIVITIES

1. PENDING/OPPOSE

Smoking and Tobacco Control. League May Oppose. AB 13 (T. Friedman). Tobacco Industry Gets Hostile Preemption Amendment. Tobacco Industry Initiative Circulating. League Opposed.

The tobacco industry succeeded in placing hostile amendments into AB 13 this week in the Senate Judiciary Committee that would preempt local governments from enacting local ordinances in the future that are stronger than the standard established by AB 13. According to the bill's author, Assembly Member Terry Friedman, "preemption of local ordinances is the tobacco industry dream." He continues, "The amendments deliberately sabotage the AB 13 coalition," which includes local government, the health community, the California Restaurant Association and the California Hotel Motel Association. The rallying cry of the supporters of AB 13, and the message cities should convey to the Senate and the media is "Give us back our bill!"

Prior to the amendment to preempt future ordinances, which was proposed by Senator Charles Calderon, AB 13 would have prohibited smoking in virtually all enclosed places of employment. Those places of employment not included in the bill could be regulated by local government. These include:

- Sixty-five percent of motel/hotel guest rooms;
- Specific parts of hotel/motel lobbies;
- Meeting or banquet rooms except during exhibit hours or when food/beverage functions are taking place;
- Warehouse facilities with less than 100,000 sq.ft. and fewer than 20 employees;
- Tobacco shops and any attached "private smokers' lounge";
- Designated breakrooms which meet specified OSHA ventilation standards;
- Cabs of trucks when non-smokers are not present;
- Medical research and treatment;
- Theatrical productions where smoking is an integral part of the production;
- Private residences, except when home is used as a child care facility;
- Gaming clubs and bars in a tavern, hotel or restaurant that meet specified ventilation standards promulgated by Cal-OSHA or federal EPA if the standard is adopted by 1997. Such facilities would have two years to install the systems.

In addition to the hostile preemption amendment, AB 13 was amended to allow smoking in portions of restaurants that elect to meet a yet to be determined ventilation standard established by Cal-OSHA.

Please see other side for the League's position on the Philip Morris Initiative.

As amended, the bill passed the Senate Judiciary Committee and is now pending in the Senate Appropriations Committee where its future is uncertain. Although the League has no position on the restaurant amendment, the proposed amendment by Senator Art Torres, combined with the preemption amendment, makes it clear that AB 13 is in serious trouble. At this time, the League has removed its support from AB 13. After reviewing the preemption language, we anticipate opposing the bill. However, Assembly Member Friedman, joined by the coalition supporting the bill, are attempting to "unamend" the amendments. **ALL CITIES, ESPECIALLY THOSE IN THE DISTRICTS OF SENATORS CALDERON, LOCKYER, TORRES, AND WRIGHT, SHOULD TELEPHONE THE MEMBERS OF THE JUDICIARY COMMITTEE AND EXPRESS STRONG OPPOSITION TO THE PREEMPTION LANGUAGE INSERTED IN AB 13. Be sure and also contact the local media as well.**

The potential failure of AB 13 is even more distressing due to the initiative now being circulated by the tobacco industry. As mentioned in a previous Bulletin, the initiative is funded primarily by Phillip Morris. It would establish a very broad, weak smoking and tobacco control standard covering smoking in restaurants, workplaces and public, regulation of vending machines and advertising. It also would preempt all current and future local ordinances. Even with the preemption of future stronger ordinances, AB 13 represents a very strong smoking standard when compared with a very weak standard included in the tobacco industry sponsored initiative.

The League traditionally does not take positions on initiatives until they qualify. However, in light of the total preemption provisions of the initiative, the League's Administrative Services Policy Committee has recommended that the League oppose the tobacco initiative before it qualifies. This recommendation will be reviewed by the League's Board of Directors in early April. However, in the meantime, we recommend that city officials take action at the local level to oppose the tobacco initiative. In doing so, it is important to work with your local medical community, as well as representatives from local heart, lung and cancer associations. Be sure and let the press know of your opposition. The tobacco industry has until April 22 to collect enough signatures to qualify the initiative. Because of the tight timeframe, it may be possible to thwart their efforts. Good luck! (Referred to previously in Bulletins #2-1994, 9-1994, and 11-1994.)

bottom of
Back of envelope

Real size

P.O. Box 41436

Sacramento, CA 95841-5615

Customers for Statewide Smoking Restrictions. A Committee of Restaurants, Hotels and Frap Morris, Inc.

First Class
U.S. Postage
PAID
Sacramento, CA
Permit #1042

EXPRESS PAK

PETITION
RESPONSE

Enclosed is the
petition to restrict
smoking in public places
you requested!

SERENA T CHEN
581 BODEN WAY - 4
OAKLAND, CA 94610

**RUSH
DATED MATERIAL**



Californians for Statewide Smoking Restrictions
P.O. Box 41436
Sacramento, CA 95841-9815

Attention: Donna M.

**PETITION
RESPONSE**

EXPRESS PAK

SERENA T CHEN
581 BODEN WAY-4
OAKLAND, CA 94610

Dear Friend,

Thanks for taking the time to talk to us on the phone yesterday. Here is the petition you promised to sign. Please remember it is important to follow the instructions carefully when completing the petition. Please ask other registered voters in your home to sign also and return the petition within the next two days in the enclosed postage-paid envelope. Once again, thanks for helping us place this measure on the ballot.

- Donna M.

This initiative features the following strict regulations:

- ✓ Doubles the fine for selling tobacco to minors.
- ✓ Severely limits vending machines in areas accessible to minors.
- ✓ Completely prohibits smoking in restaurants and workplaces unless strict ventilation standards are met.
- ✓ Bans billboard advertisement of tobacco products within 500 feet of all K-12 schools.
- ✓ Requires retailers to post signs indicating sale of tobacco products to minors is illegal.
- ✓ Mandates that at least 75% of all seats in restaurants be in designated no smoking areas.
- ✓ Imposes tough smoking restrictions in more than 200 localities that currently have no regulations at all.
- ✓ Replaces the crazy patchwork quilt of some 270 local ordinances with a single, tough, uniform statewide law.
- ✓ Stricter than 90% of the local ordinances currently on the books.

The entire text of the initiative is attached (3 pages)

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:
SMOKING AND TOBACCO PRODUCTS. STATEWIDE REGULATION. INITIATIVE STATUTE. Establishes statewide smoking and tobacco regulations. Repeals California Indoor Clean Air Act of 1976. Repeals and preempts local smoking and tobacco regulations. Bans public smoking with significant exceptions. Permits smoking sections in restaurants and employee cafeterias. Bars not regulated. Permits smoking in private offices, and business conference rooms with occupants' consent. Exempts from smoking regulations gaming clubs, bingo establishments, racetracks, sports facility private boxes and smoking lounges. Regulates location of tobacco vending machines and billboards. Increases penalties for tobacco purchases by minors. Permits amendment of tobacco regulations by two-thirds vote of Legislature. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: Unknown effects on public-sector health care costs and state tobacco tax revenues, depending on the extent there are changes in the consumption of tobacco products and/or exposure to second-hand smoke. State costs to enforce the measure would be around \$1 million annually; local enforcement costs would probably not be significant.

NOTICE TO THE PUBLIC: THIS PETITION MAY BE CIRCULATED BY A PAID SIGNATURE GATHERER OR A VOLUNTEER. YOU HAVE THE RIGHT TO ASK.

All signers of this petition must be registered in _____ County.

| | | | | |
|----|--------------------------------|----------|-------------------|--------------------|
| | Sample Print Your Name Name | MARY DOE | Residence Address | 123 MAIN ST |
| | Signature as Registered | Mary Doe | City | ANYWHERE Zip 90000 |
| 1. | Print Your Name | | Residence Address | |
| | Signature as Registered | | City | Zip |
| 2. | Print Your Name | | Residence Address | |
| | Signature as Registered | | City | Zip |
| 3. | Print Your Name | | Residence Address | |
| | Signature as Registered | | City | Zip |

You sign on line #1, fill in address, and print name.



Have other family and friends who are available sign today. (All lines need not be completed for Petition to be valid.) Fill in as many as possible today.



DECLARATION OF CIRCULATOR (To be completed after above signatures have been obtained.)

I am registered to vote in the County (or City and County) of _____ I circulated this petition section and saw each of the appended signatures on this petition being written. Each signature of this petition is, to the best of my information and belief, the genuine signature of the person whose name it purports to be. All signatures on this petition were obtained between _____ and _____ month/day/year.

Fill in dates here.

I declare (or certify) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at _____ City, CA on _____ Date
 _____ Signature of Circulator
Print Name (in full) Residence Address City Zip

URGENT

You must sign a second time here as circulator. All signatures are invalid if you fail to sign as circulator.

IMPORTANT — INSTRUCTIONS — PLEASE READ

1. Please complete the petition in all of the yellow shaded areas.
2. Be sure to open the petition to page two and write in the name of your county in the shaded area.
3. Get other registered voters in your household to sign as well but return the petition right away, even if yours is the only signature.
4. Mail your signed petition in the postage-paid envelope TODAY!

Date: March 9, 1994
File No: SA94RF0003

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

SMOKING AND TOBACCO PRODUCTS. STATEWIDE REGULATION.

INITIATIVE STATUTE. Establishes statewide smoking and tobacco regulations.

Repeals California Indoor Clean Air Act of 1976. Repeals and preempts local smoking and tobacco regulations. Bans public smoking with significant exceptions. Permits smoking sections in restaurants and employee cafeterias. Bars not regulated. Permits smoking in private offices, and business conference rooms with occupants' consent. Exempts from smoking regulations gaming clubs, bingo establishments, racetracks, sports facility private boxes and smoking lounges. Regulates location of tobacco vending machines and billboards. Increases penalties for tobacco purchases by minors. Permits amendment of tobacco regulations by two-thirds vote of Legislature. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: Unknown effects on public-sector health care costs and state tobacco tax revenues, depending on the extent there are changes in the consumption of tobacco products and/or exposure to second-hand smoke. State costs to enforce the measure would be around \$1 million annually; local enforcement costs would probably not be significant.