PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of his plan to return with his objections any bill presented to him less than ten days before adjournment sine die or presented to him after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 256, entitled "A Bill for an Act Relating to Smoking," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 256 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, JOHN WAIHEE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 256 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu, State of Hawaii, this ___22nd__ day of June, 1994.

[Signature]

JOHN WAIHEE
Governor of Hawaii
EXECUTIVE CHAMBERS
HONOLULU
June 22, 1994

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 256

Honorable Members
Seventeenth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the
Constitution of the State of Hawaii, I am returning herewith,
without my approval, Senate Bill No. 256, entitled "A Bill
for an Act Relating to Smoking."

The purpose of this bill is to amend chapter 328K,
Hawaii Revised Statutes, to (1) prohibit the distribution of
tobacco product samples on public streets and sidewalks, in
public parks, and within 500 feet of schools and other
facilities used primarily by persons under 18 years of age;
(2) prohibit the distribution of tobacco promotional
materials within 500 feet of schools and other facilities
used primarily by persons under 18 years of age; (3) amend
the definition of the term "restaurant" so that restaurants
with a seating capacity of 40 people or less (instead of the
current figure of 50 people or less) need not provide
nonsmoking areas; (4) require restaurants to set aside at
least 35 percent of their dining areas for nonsmokers until
July 1, 1995, and 50 percent thereafter; (5) nullify any
county regulation of the "sale, use, distribution or
promotion of cigarettes or other tobacco products" adopted
after January 1, 1994; (6) redefine the term "employer" so
that the provisions of chapter 328K that regulate smoking in
the workplace will apply to private employers of two or more
people as well as to government agencies and to entities that receive state funds under chapter 42D, Hawaii Revised Statutes; (7) make clear that the chapter's workplace smoking regulations do not apply to the dining or public areas of restaurants, bars, or nightclubs, or to banquet rooms or convention facilities used for private functions; and (8) establish a temporary task force within the Department of Business, Economic Development, and Tourism (DBEDT) to "develop legislative proposals to address the economic and environmental impacts of regulating smoking in restaurants, cafes, and bars throughout the state."

Portions of the bill would address the need to protect the public against the hazards of smoking and of environmental tobacco smoke. However, other parts of the bill would have the opposite effect, and for this reason I cannot approve it.

First, under the existing law restaurants are allowed to provide nonsmoking areas based on their patrons' desires. This bill's requirement that restaurants set aside certain percentages of their seating areas for nonsmoking patrons would require enforcement by the Department of Health. With over 2,000 restaurants across the state, this is beyond the ability of the department's current staffing, so the provision is, practically speaking, unenforceable.

Second, the bill's preemption provision would limit the counties' ability to protect public health within their respective jurisdictions. Current law allows the counties to establish smoking regulations that are stricter than those of the state, an arrangement that has created appropriate protections in the counties. This arrangement has, for the
most part, worked well. Still, I feel strongly that there is a place for state-wide uniform standards. Had this bill contained state-wide indoor air quality standards and the resources to monitor and enforce those standards, instead of focusing only on tobacco-related issues, I would have signed it.

Third, the establishment and chairing of the temporary task force under the auspices of the DBEDT will place increased emphasis on economic rather than public health issues. The bill stipulates that the purpose of the task force is to develop legislative proposals to address the economic and environmental impacts of regulating smoking in restaurants, cabarets, and bars throughout the state, but this provision does not include consideration of public health issues. Moreover, the bill does not appropriate any funds to support this effort.

For the foregoing reasons, I am returning Senate Bill No. 256 without my approval.

Respectfully,

JOHN WAIHEE  
Governor of Hawaii
MESSAGE FROM THE GOVERNOR
MARCH 19, 1996

Mr. President and Members of the Senate:

A certain unreality surrounds S.E.A. 106: supporters argue this legislation is necessary to preempt local ordinances that, at present, are virtually non-existent in Indiana; opponents defend the right of localities to enact measures which, to date, they have shown little or no inclination to enact.

Clearly, there is more to this than meets the eye.

S.E.A. 106 was enacted against the backdrop of an intense national debate about smoking, particularly smoking by minors. A recent front-page story in the New York Times on the subject outlines in detail the conflicting interests.

This bill contains three major substantive provisions the tobacco industry also sought in other states:

-- a ban on cities' and towns' ability to regulate the sale and marketing of tobacco;

-- criminalization of possession of tobacco by minors; and,

-- designation of the Division of Mental Health, an entity with little enforcement experience or capability, to oversee Indiana's efforts to combat teen smoking.

Let us consider each.

LIMITS ON SALE AND MARKETING

It is odd that while the public demands government that is less centralized and closer to the people, this legislation would do just the opposite. It would tie the hands of cities and towns on the theory that only Indianapolis knows best. Simply stated, this is a centralized, big government bill.

Even odder is the fact that only one product is affected. If retailers were truly threatened by a plethora of local rules, why not preempt them all? Why just rules regulating tobacco? Why not prohibit cities and towns from regulating the sale and distribution of all products? What about zoning? What about parking and traffic restrictions? This law singles out tobacco to ensure that nothing is done locally to make its sale or marketing, particularly with regard to children, more difficult.
Oddest of all, the logical extension of S.E.A. 106's reasoning would lead to a result that is opposite of that desired by its supporters -- federal control and regulation of tobacco. Under the reasoning put forth by the tobacco industry, if regulation by fifty states is preferable to hundreds of localities, then surely a single, national standard is most convenient of all. I cannot believe this is the outcome the tobacco industry desires, but it is the outcome their logic supports.

Convenience for retailers and freedom from non-existing local ordinances clearly is not a sound basis for supporting S.E.A. 106.

Is there another?

CRIMINALIZATION

The basis for supporting this legislation cannot be the criminalization of possession of tobacco by minors. What reasoning supports criminalization of tobacco possession by children while ensuring that such sales are as easy as possible?

I could support the criminalization of tobacco possession by minors by itself. But here, it serves merely as a smoke screen obscuring a very different legislative intent.

ENFORCEMENT

Finally, if we are serious about stopping teen smoking, the Indiana State Department of Health is the proper agency to put in charge of this effort. The Department of Health has a long history of inspection and regulation, while the Division of Mental Health's strength is in treating addictions, not inspecting or regulating.

I am, therefore, directing the Department of Health to formulate plans to combat teen smoking in compliance with federal law. I am further directing the Division of Mental Health to work with the Department of Health in its areas of expertise to formulate a coordinated and comprehensive plan.

CONCLUSION

S.E.A. 106 is clearly an attempt to ensure sales of tobacco, including to children, are as easy as possible and to hamstring state attempts to fight smoking by minors.

Is this sound public policy?
There is a tradition of smoking in this nation that dates back to the 16th century. When it involves informed adults under circumstances that do not threaten the health of others, it is acceptable.

But three million children smoke nationally, including thousands in Indiana, too young to know the consequences of their actions. "The vast majority of smokers say they were addicted as teenagers," the Times reports. Is it wise to enact laws that would result in more thirteen, fourteen and fifteen year olds smoking? No. This legislation plainly would increase smoking by our children, not decrease it. I therefore veto this bill and return it to the Senate for further action.

Governor Evan Bayh
PROCLAMATION
BY THE
Governor of the State of Texas

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article 1V, Section 14, of the Texas Constitution, I, George W. Bush, Governor of Texas, do hereby disapprove and veto House Bill 2460 because of the following objections:

House Bill 2460 preempts local governing bodies from adopting or enforcing any ordinance, rule, or regulation concerning the sale, distribution, advertising, display, or promotion of cigarettes or tobacco products. Maintaining local control of this issue is in the best interest of the citizens of the State of Texas.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 1995.

George W. Bush
Governor of Texas
March 19, 1996

The Honorable Melvin R. Brown
Speaker of the House
and
The Honorable Lane Beattie
President of the Senate

Dear Speaker Brown & President Beattie:

This is to inform you that on March 19, 1996, I have vetoed HB 43, CIGARETTE TAX AND APPROPRIATION, and have transmitted it to the Lieutenant Governor for filing.

I have vetoed HB 43 because the amendment added to the bill in the final week of the session would revoke all local authority regarding the taxation, sale, distribution, promotion, and regulation of cigarettes and other tobacco products. This preemption amendment would not only prohibit future action by Utah's local governments to regulate the sale of tobacco products to protect underage youth, but could restrict both state rules enforcing Utah's Indoor Clean Air Act and local authority to enforce the Act. In addition, several communities throughout Utah have already passed local ordinances requiring the placement of cigarettes so as to deter shoplifting and illegal sales to underage youth. Other communities are in the process of enacting similar ordinances. The issue is thus not solely one of local authority, but also of the impact of the amendment upon the health of Utah's citizens, especially our young people.

Sincerely,

Michael O. Leavitt
Governor