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## Recent Legislative Activity

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# Recent Legislative Activity

## Bill bans smoking in U.S. schools

The U.S. House of Representatives recently approved legislation banning all indoor smoking at federally funded education, health, and daycare programs for children under 18. Organizations or institutions affected include public and some private schools, Head Start programs, community health clinics, and many daycare centers.

The House action "means millions of American children will now be guaranteed a smoke-free environment," said Rep. Richard J. Durbin, the co-chair of the Congressional Task Force on Tobacco and Health. The prohibition was part of an education bill that would create voluntary standards for what children should know about the risks of smoking and give states and local school districts the money to achieve those goals.

Durbin had proposed a more lenient version of the smoking ban that would have allowed smoking indoors in rooms with separate ventilation systems. However, the House adopted the more stringent proposal.

Studies show that second-hand smoke poses severe health risks for children, contributing to respiratory ailments in an estimated 300,000 children every year. Additionally, the Environmental Protection Agency has found that second-hand smoke aggravates asthma symptoms in one out of five children and causes about 3,000 lung cancer deaths among non-smokers each year.

The smoking ban does not take away federal monies from programs that violate the ban. However, the bill does authorize the Department of Health and Human Services to impose fines of up to \$1,000 for each violation on any "responsible official" who allows indoor smoking. **1993 H.B. 710.**

## New Jersey enacts treble damages on bad checks

The New Jersey Legislature recently enacted a new law providing that a person who writes a bad check must pay whichever is greater, the treble amount of the check or \$100 in damages to the payee.

Under the new law, when a check, draft, or order of withdrawal for the payment of money is dishonored for lack of funds, or because the maker does not have an account with the banking institution, the maker must pay the face amount in cash or by cashier's or certified check within 35 days after the payee demands payment. If the maker fails to pay within 35 days, she is liable to the payee for the face amount of the check, attorneys' fees, court costs, and damages in the amount of \$100 or three times the amount of the check, whichever is greater. However, damages are limited to \$500 over the face amount of the check.

The new law does not displace any criminal sanctions which may apply to the maker of the bad check. **1993 N. J. Sess. Law Serv. Ch. 379 (West)**

## Senate approves strict law on flood-plain insurance

A compromise flood insurance reform package approved by the United

States Senate would deny federal disaster relief to people who are required to buy flood insurance for their homes but fail to do so or let their policies lapse. The insurance program in effect last year failed to protect thousands of Midwesterners whose homes flooded because fewer than ten percent of residents of flood plains carried such insurance.

Key provisions of the bill include: (1) a new form of insurance that would allow homeowners to pay more in premiums to collect monies that would help them pay to elevate, flood-proof, or move their home if it sustains substantial or repeated damage in a flood; (2) an annual \$20 million dollar grant program for local governments to finance projects that would decrease the risk of flooding, including construction of levees; (3) abolition of a program that paid people to move or demolish their homes before they were damaged by floods; (4) a 10-day waiting period between the time people sign up for flood insurance and the date it takes effect; (5) a 10 percent cap on annual increases in premiums and an increase in the coverage available for a single-family home from \$185,000 to \$250,000; and (6) a requirement that local governments notify residents of changes in flood maps, which determine the risk of flooding and whether flood insurance is required.

The legislation would also allow the federal government to impose fines of up to \$100,000 on lenders who flout the law requiring them to make customers buy and carry flood insurance when they get mortgages on flood-prone homes. However, lenders are also given new power to avoid such fines. Under the legislation, if a mortgage holder fails to buy flood insurance voluntarily within 45 days, the lender could buy the policy directly and add premium charges to the mortgage payment. Lenders would also be required to set up escrow accounts for flood insurance payments,

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making policies more difficult for homeowners to drop. **1994 S.B. 1813.**

### California requires child-safety labels on buckets

Because of the danger of infants and small children falling in to buckets head first and drowning in the contents, the California Legislature recently passed a law requiring warning labels on buckets.

The law requires that manufacturers, distributors, and sellers of four to six gallon containers intended for use, sale, or any other purpose within the state must ensure that the container bears warnings labels meeting the following requirements: (1) the labels can be easily removed only by using tools or a solvent; (2) the labels must be at least 5 inches high by 2.75 inches wide or larger, and should be centered on each side of the bucket near where the handle is inserted. One label must be in Spanish and the other in English; (3) the labels must contain the word "WARNING" in block print and the words "Children Can Fall Into Bucket and Drown—Keep Children Away From Buckets With Even a Small Amount of Water;" and (4) each label must bear a picture of a child reaching into a bucket and include an encircled slash and a triangle with an exclamation point.

The legislature's findings noted that in the last five years more than 200 infants and small children have drowned after falling into buckets containing water or other liquids. The children were generally between the ages of 8 months to 13 months and most commonly fell into plastic five-gallon, straight-sided, industrial containers. The legislature found that although these containers can be purchased new in stores for household tasks, they are generally used for transporting industrial products, including food, paint, and cleaning solutions.

When emptied of their original contents, these containers frequently find their way into people's homes. **Cal. Health & Safety Code § 24428.5** (West 1994).

### Illinois may remove abandoned mobile homes

Finding that abandoned mobile homes are a nuisance because they cause blight and depress property values, the Illinois Legislature passed a bill which gives municipalities the power to remove abandoned mobile homes while protecting property rights.

The new law defines an abandoned mobile home as a mobile home in which no owner currently resides. Further, the definition requires that the mobile home owner's electricity, gas, water, and sewer payments have been declared delinquent and the mobile home privilege tax has not been paid for at least three months.

Before removing an abandoned mobile home, the municipality must send written notice to each owner and lienholder who appears on the records of the Secretary of State as well as to each owner of the land upon which the mobile home is located. If an owner or lienholder does not sign for the notice or cannot be located, the municipality must publish notice in a newspaper of general circulation once a week for a period of three consecutive weeks.

If an owner or lienholder then fails to restore the electrical and water services and to pay all the taxes within a thirty day period, the municipality obtains title to the mobile home and may remove it. If the municipality determines that the home has sufficient value, it may sell it at public auction.

In the event that the municipality disposes of or auctions off a mobile home at a financial loss, the person who had record title when the proceedings began will ultimately be responsible for

all losses incurred. **1993 Ill. Legis. Serv. P.A. 88-526** (West).

### Missouri considers discarding its used-tire disposal statute

In order to reduce the number of discarded tires littering the state, the Missouri Legislature is considering a new bill regulating used tire disposal.

In 1991, the Missouri Legislature banned old tires from landfills to save space. However, old tires subsequently began showing up in rivers, woods, and illegal dumps. After the 1991 law took effect, tire dealers began charging buyers a fee for tire disposal of their old tires. Individuals who did not want to pay the fee simply disposed of old tires wherever they wished.

The proposed bill would require tire buyers to turn in an old tire for every new tire purchased unless they can show they have a "legitimate use for the waste tire and will not dispose of the waste tire illegally." In addition, tire dealers will not pay tire haulers for hauling away old tires until they provide a receipt showing that they took the old tires to a legal disposal site.

Missouri presently generates cleanup money by charging a fifty-cent fee for each new tire sold. Additional money for cleaning up the old tires—estimated to be as many as 15 to 20 million—will be raised by closing a loophole in the disposal fee collection and requiring that more of the fee money be used for cleanup. The former loophole allowed tires purchased for buses, trucks, and agricultural equipment to be exempt from the law.

The proposed bill would allow only agricultural equipment to remain exempt. In addition, farmers would be exempt from turning in an old tire for every new tire purchased because they have many uses for old tires on their farms. **1994 Mo. S.B. 777** (proposed).