

***What is Proposition 26?***

It amends California's Constitution to prevent new mitigation fees or change those that are already on the books. Prop 26 redefines mitigation fees as taxes and subjects them to a 2/3-majority vote requirement.

***Who supports Proposition 26?***

Anheuser-Busch, Phillip Morris, Chevron, Exxon Mobil and PepsiCo are just a few of the major supporters of Prop 26. This is not a grassroots movement seeking to improve the lives of California residents. Both large and small companies have launched a concerted effort to further pad their bottom lines at the expense of everyday citizens.

***Why does the alcohol industry support Proposition 26?***

Prop 26 will allow the alcohol industry to profit while California residents pay the tab for the harm caused by alcoholic beverages. Imposing a 2/3-majority vote requirement on mitigation fees will make it nearly impossible to pass or amend measures that hold companies financially responsible for the problems they cause. Alcohol use in California costs the state nearly \$40 billion and causes nearly 10,000 deaths each year.<sup>1</sup> It is no surprise that all levels of the alcohol industry support Prop 26, including large manufacturers such as Anheuser-Busch, smaller producers such as local wineries, and trade groups such as alcohol producer and grocer associations.

***Doesn't Proposition 26 help small businesses?***

Supporters claim small businesses are fleeing California because the government imposes fees on their activities. In reality, Prop 26 supporters want to insulate industry from harm it causes in California. A majority of the 125 small business supporters listed on the "Yes on 26" website are wineries. Proposition 26 puts business interests before the public health of Californians.

***What does the passage of Proposition 26 mean for me?***

Prop 26 means less money for schools, universities, prisons, health, and social service programs. Mitigation fees offset governmental costs associated with health and environmental issues. When companies pay mitigation fees for the damage their products cause, state and local governments can then use general tax dollars to fund programs that benefit every resident. Passage of Prop 26 will make Californians pay for the damages caused by harmful products and the companies that produce them.

***How much will the passage of Proposition 26 cost Californians?***

According to the state's Legislative Analyst's Office, Prop 26 could reduce government revenues by billions of dollars annually. One immediate example: Prop 26 will repeal a recent fuel tax law that made matching funds available for transportation programs, an additional yearly cost of \$1 billion to the general fund. Prop 26 means a decrease in government services and a need for increased tax revenue.

***What are some examples of mitigation fees?***

Currently, the state and local governments use mitigation fees to provide funding for programs that safeguard Californians' health and environment. Examples of such fees include those that address hazardous waste disposal; oil pipeline accidents; and injuries related to effects of pollution. At the local level some cities impose a fee on alcohol retailers

## **CALIFORNIA 2010 PROPOSITION 26 Q&A**

to fund code and law enforcement, as well as education programs to reduce public nuisance problems associated with alcohol including violence, loitering and public drinking.

### ***Are current environmental consumer regulations and fees protected?***

Prop 26 will undermine California's strong environmental and consumer protection laws. Funding from current mitigation fees will be less and less able to offset costs associated with a regulated activity, and the 2/3-majority vote requirement will make it nearly impossible to increase fee amounts. Decreases in funding mean less effective programs and increased reliance on money from state and local general funds. In the end, California's taxpayers will bear the financial burden.

### ***Are fees just a gimmick used by politicians to pass hidden taxes?***

There is a clear and distinct legal difference between a "tax" and a "fee." In a unanimous decision, the California Supreme Court outlined the distinctions between a "tax" and a "fee" in *Sinclair Company v. State Board of Equalization*. Taxes are imposed on the general population for the purpose of funding general public services such as education, prisons, health and social services. Fees are typically imposed on specific activities for the purpose of funding defined services or programs related to that activity. Prop 26 eliminates this well-established distinction and redefines mitigation fees as taxes.

### ***Can politicians just call a "tax" a "fee" to pass it?***

Because of the specific legal distinctions between taxes and fees, politicians cannot rename a measure that raises funds and change the passage requirements. Currently, before any new fee is imposed it must be introduced and passed by a majority vote. In addition to following the same legislative or administrative procedures mandated by law for establishing a tax, there are specific legal guidelines that constitute a fee. If these guidelines are not met, then the fee is automatically considered a tax and subject to the 2/3-majority vote requirement.

### ***Proposition 26 only applies to a certain type of fee?***

It only applies to those fees that are regulatory in nature. Mitigation fees seek to regulate activity and offset costs associated with the regulatory activity. Other fees such as license and car registration fees will continue to be subject to the standard legislative and administrative process.

### ***Haven't we been through this before?***

In 2000, corporations financed Proposition 37, which attempted to redefine fees as taxes and impose a 2/3-majority vote requirement. Prop 37 was a direct response to the ruling in *Sinclair Company v. State Board of Equalization*. Voters rejected Prop 37.

### ***Why should I vote 'No' on Proposition 26?***

Without effective mitigation fees, Californians will be forced to accept decreased services and increased taxes. Prop 26 undermines state and local government abilities to hold the alcohol industry accountable for the harm it causes in California. Vote No on Proposition 26 to tell corporations that we will not subsidize the harm they cause to Californians.

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<sup>1</sup> Rosen SM, Miller TR and Simon M. The cost of alcohol in California. *Alcoholism: Clinical and Experimental Research*. 2008;32:1925–1936.