



SOLANO COUNTY

Legislative Committee Meeting

Committee
Supervisor Erin Hannigan (Chairwoman)
Supervisor Linda J. Seifert

Staff
Michelle Heppner

August 3, 2015

1:30 pm

**Solano County Administration Center
Sixth Floor Conference Center, Room 6003
675 Texas Street
Fairfield, CA 94533**

AGENDA

- I. **Approval of the Agenda**
- II. **Public Comment** (Items not on the agenda)
- III. **Update from Solano County Legislative Delegation** (Legislative representatives)
- IV. **Discussion of Federal Bills and consider making a recommendation** (Waterman & Associates)
 - FY 2016 Budget and Appropriations Update
 - Transportation Reauthorization
 - Fee-to-Trust Reform - Proposed Letter **(Page 2)**
 - Status of Drought Legislation
 - Medicaid IMD Rule
 - TANF Reauthorization
- V. **CSAC Resolution for consideration**
 - Commercial Sexual Exploitation of Children (CSEC) - **(Pages 4-11)**
- VI. **Legislation for consideration** (Shaw/Yoder/Antwih, Inc.)

Health & Social Services

- [SB 260](#) ([Monning](#) D) Medi-Cal: county organized health systems: pilot programs. **(Pages 5-20)**
Current Analysis: 07/02/2015 [Assembly Health \(text 6/25/2015\)](#) (Pages 21-29)
- [SBX2 5](#) ([Leno](#) D) Electronic cigarettes. **(Pages 30-69)**
- [SBX2 7](#) ([Hernandez](#) D) Tobacco products: minimum legal age. **(Pages 70-84)**
- [SBX2 8](#) ([Liu](#) D) Tobacco use programs. **(Pages 85-93)**
- [SBX2 9](#) ([McGuire](#) D) Local taxes: authorization: cigarettes and tobacco products. **(Pages 94-95)**
- [SBX2 10](#) ([Beall](#) D) Cigarette and tobacco product licensing: fees and funding. **(Pages 96-102)**

VII. **Next Meeting – August 17, 2015 at 1:30 pm**

VIII. **Adjourn**

DRAFT

August X, 2015

The Honorable Dianne Feinstein
331 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Feinstein:

On behalf of the Solano County Board of Supervisors, I am writing to urge you to support the *Interior Improvement Act (S. 1879)*. The legislation, sponsored by Senate Committee on Indian Affairs Chairman John Barrasso (R-WY) would bring much-needed, long-overdue reforms to the Department of the Interior's fee-to-trust process.

As you know, the *Indian Reorganization Act of 1934 (IRA)* provides the Secretary of the Interior with broad discretionary power to take land into trust for the benefit of Indian tribes. The Act does not, however, include *any* limits or standards relative to the exercise of the Secretary's trust acquisition authority. Instead, all policies for taking land into trust are left to the discretion of the Bureau of Indian Affairs (BIA). Unfortunately, the BIA's fee-to-trust process has created significant controversy, serious conflicts between tribes and local governments, and broad distrust of the fairness of the system.

Under current BIA practices, county governments are afforded limited, and often late, notice of a pending trust land application. Additionally, BIA regulations do not accord local concerns adequate weight in the land-into-trust process, as counties are only invited to provide comments on two narrow issues – potential jurisdictional conflicts and the loss of tax revenues. Moreover, current law does not provide any incentive for Indian tribes to enter into enforceable mitigation agreements with counties to address the often significant off-reservation impacts associated with tribal development projects, including casinos.

S. 1879 would create a new paradigm whereby BIA would be statutorily required to provide adequate, up-front notice to counties whenever the agency receives a complete or partial application from a tribe seeking to have off-reservation fee or restricted land taken into trust. In turn, counties would be afforded an opportunity to review and comment on the application.

Furthermore, the bill would encourage tribes that are seeking trust land to enter into cooperative agreements with county governments, the terms of which could relate to mitigation, changes in land use, dispute resolution, fees, etc. In cases in which tribes and counties have not entered into mitigation agreements, the bill would require the Secretary of the Interior to consider whether off-reservation impacts have been sufficiently mitigated.

These common sense standards – which would be anchored in federal statute – would go a long way toward ensuring that the legitimate interests of county governments and local communities are considered as part of the land-into-trust process. In Solano County, like many counties in California, we believe that tribes and local governments deserve a fee-to-trust process that is founded on mutual respect and encourages localities and tribes to work together on a government-to-government basis.

Again, we urge you to support the *Interior Improvement Act*. Should you have any questions or if you need any additional information, please contact Joe Krahn, Solano County's Washington Representative, at (202) 898-1444.

Sincerely,



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California
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July 8, 2015

To: Chairs of the County Boards of Supervisors
County Administrative Officers

From: DeAnn Baker, Director of Legislative Affairs

Re: **Commercial Sexual Exploitation of Children (CSEC) – County Resolutions**

Background. On May 28, the California State Association of Counties (CSAC) Board of Directors voted to approve a resolution to affirm CSAC’s commitment to developing and supporting strategies to prevent, reduce and serve the victims of commercial sexual exploitation of children and work to eliminate sex trafficking in California.

The commercial sexual exploitation of children (CSEC) is a pressing national, state, and local issue. The FBI estimates that 100,000 children in the United States are sold for sex each year, including child sex trafficking, child sex tourism, and child pornography.

In California, the issue is especially urgent. According to the FBI, three of the top 13 highest trafficking areas in the nation are located in California: San Francisco, Los Angeles, and the San Diego metropolitan areas. The age when most youth are lured into CSEC activities is shocking: the average age for boys is between eleven and thirteen, and for girls, it is between ages twelve to fourteen. Even more shocking: the average life expectancy of an exploited child from the time they first enter CSEC activities is 7 years (U.S. News & World Report, Oct. 16, 2005, “*Young Lives for Sale*” by Bay Fang).

County law enforcement, child welfare services, behavioral health, the courts, and community-based organizations all grapple with CSEC youth and report increasing numbers of exploited underage victims. The CSAC Board of Directors recognized the urgency of this issue when they approved the following new CSAC human services platform language on February 19 of this year:

“Counties support efforts to build capacity within local child welfare agencies to serve child victims of commercial sexual exploitation. Commercial sexual exploitation of children (CSEC) is an emerging national and statewide issue. In fact, three of the top ten highest trafficking areas in the nation are located in California: San Francisco, Los Angeles, and the San Diego metropolitan areas. Counties believe this growing and complex problem warrants immediate attention in the Golden State, including funding for prevention, intervention, and direct services through county child welfare services (CWS) agencies. Counties also support close cooperation on CSEC issues with law enforcement, the judiciary, and community-based organizations to ensure the best outcomes for child victims.”

This is also why CSAC actively supported a state budget augmentation last June to earmark more than \$20 million in funding to fund local prevention, intervention, and direct services for CSEC youth (See budget section below for more detail).

The County Counsels’ Association of California, on behalf of CSAC, has also submitted a brief to the United States Supreme Court in support of a Los Angeles City ordinance that

allows law enforcement to search motel and hotel guest registers without a warrant during efforts to apprehend human traffickers. The ordinance, which was struck down by the Ninth Circuit Court of Appeals, assisted law enforcement in capturing human traffickers and freeing CSEC youth in numerous cases.

The Supreme Court has yet to hear the appeal.

Other efforts at the state and national levels are underway, including legislation aimed at prevention, identification, and strengthening the tools available to law enforcement for identifying, arresting, and prosecuting child sex traffickers (See state and federal sections below).

Child sex trafficking occurs each day in California, as CSEC youth are transported through our counties and kept captive in varying cities or for specific events. While counties have led the effort to address the unique needs of CSEC youth, including working with law enforcement and the courts to divert suspected exploited children, the need for intensive services tailored to minors who have been ensnared in the illegal sex trafficking trade remains critical. The attached resolution affirms CSAC's commitment to working together to develop strategies to reduce and, hopefully, eliminate the incidence of minors caught in the sex trafficking trade in California.

State Budget. Last summer, CSAC supported a successful County Welfare Directors Association (CWDA) budget proposal last year to fund prevention, intervention, and direct services for CSEC youth through county child welfare services (CWS) agencies. In the current year, counties can access a total of \$20.3 million General Fund, which includes initial and one-time costs and can be matched at 50 percent with federal funding. In future years, county child welfare agencies may access up to \$9 million statewide for CSEC program activities through the Department of Social Services.

This year Congress passed the federal Strengthening Families Act – an act to prevent and address sex trafficking of children in foster care, to extend and improve adoption incentives, and to improve international child support recovery – which was supported by both CSAC and CWDA. The Act contained several new mandates for states – and in California, the county child welfare services agencies – that we agree have merit in our collective efforts to serve CSEC victims.

However, Governor Brown's Administration proposed diverting \$3.25 million in CSEC funding intended for local services to victims of sex trafficking to instead meet these new federal mandates. CSAC and CWDA are strongly opposed to diverting these funds and continue to engage the Legislature on this issue.

State Legislation. Governor Brown signed a raft of CSEC bills into law last fall, including SB 955 (Chapter 712, Statutes of 2014) by Senator Holly Mitchell allowing courts to authorize wiretaps for the investigation and prosecution of human trafficking, and AB 1585 (Chapter 708, Statutes of 2014) by Assembly Member Luis Alejo to allow the courts to set aside a conviction of solicitation or prostitution for those who can prove he or she was a victim of human trafficking. Senator Mitchell was also successful in passing SB 1165 (Chapter 713, Statutes of 2014), which allows sex trafficking prevention education in

California's schools. Fines increased from \$20,000 to \$25,000 for people convicted of placing a minor into prostitution.

Several CSEC bills have been introduced this legislative session, including AB 1051 by Assembly Member Brian Maienschein, which would amend Proposition 21 (2000) to add human trafficking to the list of activities and offenses that may be used to establish criminal gang activity.

SB 518, by Senator Mark Leno, would create clear guidelines for Trauma Recovery Center (TRC) services administered by the Victims Compensation & Government Claims Board (VCGCB) in California. By setting clear guidelines and bolstering training for new trauma recovery centers, this bill would ensure that victims of crime and trauma in California receive the comprehensive and timely services they need in order to heal, and to avoid negative economic consequences for themselves and their communities.

The TRC model has proven to be extremely successful, and since the grant program began, survivors of crime who received services through the TRC saw significant increases in health and wellness. In fact, 74 percent of those served showed an improvement in mental health, and 51 percent demonstrated an improvement in physical health. People who receive services at the TRC are 56 percent more likely to return to employment, 44 percent more likely to cooperate with the district attorney, and 69 percent more likely to generally cooperate with law enforcement. Providing all of these benefits are 33 percent lower than the cost traditional providers.

The Legislative Analyst's Office (LAO) estimates future additional funding for the TRC grant program at anywhere between \$10-20 million annually, stemming from language in Proposition 47 of 2014 that directed 10 percent of the savings realized from the proposition to this program.

Under current law, crime victims and witnesses to crime face various obstacles before receiving monetary compensation that they are lawfully entitled to receive. SB 519, by Senator Loni Hancock, would reform how crime victims are compensated for their suffering in several ways, including but not limited to: requiring that the Board applications be processed within 90 days of receipt, including appeals time; requiring that all Board correspondence with applicants be in English, Spanish, and Chinese; eliminating the "cooperation" requirement in order to get compensation for witnesses who are minors; and increasing the amount a victim's family would receive for funeral costs from \$5000 to \$7500.

Counties agree that reform is necessary to better support victims of crime, such as CSEC victims, and is currently supporting SB 519.

California Attorney General. Attorney General Kamala Harris led an Anti-Trafficking Working Group in 2012 and has created a resource center online for recognizing, treating, and prosecuting human trafficking, including minors, at www.oag.ca.gov/human-trafficking. She also released the report "The State of Human Trafficking in California 2012" (available in the Resources Section below) which identifies human trafficking as a top priority for her office.

In January 2015, the Attorney General announced the new Bureau of Children's Justice within the California Department of Justice (DOJ). The mission is to protect the rights of

children and focus the attention and resources of law enforcement and policymakers on the importance of safeguarding every child so that they can meet their full potential. The Bureau will focus its enforcement and advocacy efforts on California's foster care, adoption and juvenile justice system, including human trafficking of vulnerable youth. DOJ held meetings in Sacramento, Los Angeles and Oakland with the expectation of working with experts in the areas of children and family services, CSEC youth, juvenile justice, education, and other areas impacting children.

Federal Actions. The House acted early this year in passing by voice vote the Justice for Victims of Trafficking Act of 2015 (H.R. 181). Adopted on January 27, the bill would provide competitive grants to state and local governments from the U.S. Department of Justice to improve the investigation and prosecution of child trafficking crimes, provide training to personnel to respond to victims and address their need for specialized services. The bill would authorize the appropriation of \$5 million annually over FY's 2016-2019.

The Senate Judiciary Committee reported out a similar bill last month on a unanimous vote. That measure is also called the Justice for Victims of Trafficking Act of 2015 (S. 178). Under the Senate legislation, \$7 million is appropriated annually through a victim's compensation fund from assessments placed on persons convicted of sex trafficking and similar offenses. Funding would be made available to state and local governments through a competitive grant process similar to the one under the House counterpart bill.

Once it reached the Senate floor however, Democrats took a closer look at the language and discovered a statutory reference contained in the bill blocking money from the fund for paying for abortions. The so-called Hyde amendment language has been added to existing pots of funding under federal health programs for many years, but Democrats objected to it being tied to a new source of federal funding. The Senate spent nearly two weeks debating the bill and Republicans had been unable to break a Democratic filibuster against it. Senator Boxer (D-CA) had withdrawn her name as a co-sponsor of the bill and Senator Feinstein (D-CA) has made speeches on the floor stating that she will not support passage until the language is struck from the measure. The bill had been pulled from the Senate floor to make way for debate on the Senate budget resolution (S. Con. Res. 11), but was finally passed after the Hyde Amendment language was removed on April 22. It is now in the House.

This year's Congressional activity on sex trafficking builds upon bipartisan work enacted into law last fall. The new law, the Preventing Sex Trafficking and Strengthening Families Act (H.R. 4980; P.L. 113-183) contains a number of federal, state and local reporting requirements to be implemented over the next few years in order to better understand the breadth of the sex trafficking problem. Included are requirements due to be implemented this fall for child welfare agencies to develop and implement protocols to locate children who have runaway or are missing from foster care; determine the child's experiences while absent from care; develop screening to determine if the child is a sex trafficking victim; and, report the information to the federal government.

Recommendation. The CSAC Board of Directors recommend that County Boards of Supervisors adopt the attached resolution to increase awareness of CSEC issues and affirm the County's commitment to combatting CSEC activities.

Attachments:

1. County-specific sample resolution regarding Commercial Sexual Exploitation of Children
2. CSAC resolution regarding Commercial Sexual Exploitation of Children

Resources:

- Los Angeles
 - [Succeeding Through Achievement and Resilience \(STAR\) Court](http://www.courts.ca.gov/27693.htm) - <http://www.courts.ca.gov/27693.htm>
 - ["Prostitution in Los Angeles: Court gives girls in sex trade a second chance"](http://www.dailynews.com/social-affairs/20140518/prostitution-in-los-angeles-court-gives-girls-in-sex-trade-a-second-chance) – Los Angeles Daily News <http://www.dailynews.com/social-affairs/20140518/prostitution-in-los-angeles-court-gives-girls-in-sex-trade-a-second-chance>
 - ["January Declared 'National Human Trafficking Month' in L.A. County"](http://patch.com/california/arcadia/january-declared-national-human-trafficking-month-la-county-0) – Arcadia Patch <http://patch.com/california/arcadia/january-declared-national-human-trafficking-month-la-county-0>
- Alameda
 - [H.E.A.T. \(Human Exploitation and Trafficking\) Watch](http://www.heatwatch.org/) <http://www.heatwatch.org/>
 - ["Alameda County DA Unveils Billboard Campaign Against Child Sex Trafficking"](http://sanfrancisco.cbslocal.com/2015/01/09/alameda-county-district-attorney-unveils-billboard-campaign-against-human-trafficking-child-sex-exploitation/) – CBS SF Bay Area <http://sanfrancisco.cbslocal.com/2015/01/09/alameda-county-district-attorney-unveils-billboard-campaign-against-human-trafficking-child-sex-exploitation/>
- San Francisco
 - [SFCaHT \(San Francisco Collaborative Against Human Trafficking\)](http://www.sfcaht.org/) <http://www.sfcaht.org/>
 - [SFCaHT Anti-Human Trafficking Teen Poster Contest](http://www.sfcaht.org/teen-poster-contest.html) <http://www.sfcaht.org/teen-poster-contest.html>
- Merced
 - ["Fight against human trafficking changing in Merced County"](http://www.mercedsunstar.com/news/local/article6729123.html) – Merced Sun-Star <http://www.mercedsunstar.com/news/local/article6729123.html>

Reports:

- 2012 Attorney General Report: ["The State of Human Trafficking in California"](http://oag.ca.gov/sites/all/files/agweb/pdfs/ht/human-trafficking-2012.pdf) <http://oag.ca.gov/sites/all/files/agweb/pdfs/ht/human-trafficking-2012.pdf>
- 2013 California Child Welfare Council Report: ["Ending the Commercial Sexual Exploitation of Children"](http://www.youthlaw.org/fileadmin/ncyl/youthlaw/publications/Ending-CSEC-A-Call-for-Multi-System_Collaboration-in-CA.pdf) http://www.youthlaw.org/fileadmin/ncyl/youthlaw/publications/Ending-CSEC-A-Call-for-Multi-System_Collaboration-in-CA.pdf
- National Human Trafficking Resource Center 2007-2012 Report: ["Human Trafficking Trends in the United States – Polaris Project"](http://www.polarisproject.org/human-trafficking/overview/human-trafficking-trends) - <http://www.polarisproject.org/human-trafficking/overview/human-trafficking-trends>
- April 2014 NACo Survey Report: ["The Problem of Human Sex Trafficking in America"](http://www.naco.org/newsroom/pubs/Documents/Surveys/SexTrafficking_Survey_April2014.pdf) http://www.naco.org/newsroom/pubs/Documents/Surveys/SexTrafficking_Survey_April2014.pdf

- Legislative Analyst's Office Report: "**The 2015-16 Budget: Improving State Programs for Victims of Crime**"
<http://www.lao.ca.gov/reports/2015/budget/crime-victims/crime-victims-031815.pdf>
- California State Auditor December 2008 Report: **Victim Compensation and Government Claims Board: It Has Begun Improving the Victim Compensation Program, but More Remains to Be Done**
<https://www.bsa.ca.gov/pdfs/reports/2008-113.pdf>

CSAC Staff Contacts:

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A RESOLUTION TO AFFIRM CSAC'S COMMITMENT TO PREVENTING COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN IN OUR COUNTIES AND WORK COLLABORATIVELY WITH ALL COUNTY PARTNERS TO IDENTIFY, PROTECT, AND SERVE THESE VULNERABLE YOUTH

IN THE MATTER OF the epidemic of Commercial Sexual Exploitation of Children (CSEC) in the State of California:

WHEREAS, the Board of Directors of the California State Association of Counties (CSAC) recognize that the commercial sexual exploitation of children is a pressing national, state, and local issue, and

WHEREAS, the FBI estimates that 100,000 children in the United States are sold for sex each year, including child sex trafficking, child sex tourism, and child pornography, and

WHEREAS, three of the top 13 highest trafficking areas in the nation are located in California: San Francisco, Los Angeles, and the San Diego metropolitan areas, and

WHEREAS, county law enforcement, child welfare services, behavioral health, the courts, and community-based organizations report increasing numbers of exploited underage victims, and

WHEREAS, counties have led the effort to address the unique needs of CSEC youth, including working with law enforcement and the courts to divert suspected exploited children, and

WHEREAS, county law enforcement, child welfare services, behavioral health, the courts, and community-based organizations continue to grapple with identifying and assisting CSEC youth, and

WHEREAS, the need for intensive services tailored to minors who have been ensnared in the illegal sex trafficking trade remains critical,

NOW, THEREFORE, BE IT RESOLVED BY THE CSAC BOARD OF DIRECTORS TO AFFIRM CSAC'S COMMITMENT TO DEVELOPING AND SUPPORTING STRATEGIES TO PREVENT, REDUCE, AND SERVE THE VICTIMS OF COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN AND WORK TO ELIMINATE SEX TRAFFICKING IN CALIFORNIA.

PASSED AND ADOPTED by the Board of Directors of the California State Association of Counties at its meeting on the 28 day of May 2015.

By: 
CSAC PRESIDENT

A RESOLUTION TO AFFIRM THE COMMITMENT OF THE COUNTY OF

(COUNTY NAME)

**TO PREVENTING COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN IN
OUR COUNTY AND TO WORK COLLABORATIVELY WITH ALL COUNTY
PARTNERS TO IDENTIFY, PROTECT, AND SERVE THESE VULNERABLE
CHILDREN AND YOUTH**

IN THE MATTER OF the epidemic of Commercial Sexual Exploitation of Children (CSEC) in the State of California:

WHEREAS, the _____ County Board of Supervisors (Board of Supervisors) recognizes that the commercial sexual exploitation of children is a pressing national, state, and local issue, and

WHEREAS, the FBI estimates that 100,000 children in the United States are sold for sex each year, including child sex trafficking, child sex tourism, and child pornography, and

WHEREAS, three of the top 13 highest trafficking areas in the nation are located in California: San Francisco, Los Angeles, and the San Diego metropolitan areas, and

WHEREAS, county law enforcement, child welfare services, behavioral health, the courts, and community-based organizations report increasing numbers of exploited underage victims, and

WHEREAS, counties have led the effort to address the unique needs of CSEC youth, including working with law enforcement and the courts to divert suspected exploited children, and

WHEREAS, county law enforcement, child welfare services, behavioral health, the courts, and community-based organizations continue to grapple with identifying and assisting CSEC youth but have also made significant gains in meeting the unique needs of these traumatized children, and

WHEREAS, the need for intensive services tailored to minors who have been ensnared in the illegal sex trafficking trade remains critical,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS TO AFFIRM THE COUNTY'S COMMITMENT TO DEVELOPING AND SUPPORTING STRATEGIES TO PREVENT, REDUCE, AND SERVE THE VICTIMS OF COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN AND WORK TO ELIMINATE SEX TRAFFICKING IN CALIFORNIA.

PASSED AND ADOPTED by the _____ County Board of Supervisors at its meeting on the ____ day of _____.

SB 260 FACT SHEET
SENATOR BILL MONNING
COUNTY ORGANIZED HEALTH SYSTEM: CONSUMER PROTECTIONS

PROPOSED BILL

Senate Bill (SB) 260 deletes the current licensing exemption and would require a County Organized Health System (COHS) plan to be licensed by the Department of Managed Health Care (DMHC) under the Knox-Keene Act.

BACKGROUND

Most Medi-Cal patients are enrolled in Medi-Cal health plans. There are different models of Medi-Cal managed care including COHS plans, which are created by the county board supervisors and serve all the Medi-Cal managed care consumers in the county. There are currently six COHS plans operating in 22 counties:

- CalOptima (Orange County)
- CenCal Health (Santa Barbara and San Luis Obispo Counties)
- Central California Alliance for Health (Santa Cruz, Monterey, Merced Counties)
- Gold Coast Health Plan (Ventura County)
- Health Plan of San Mateo (San Mateo County) – voluntarily licensed
- Partnership Health Plan of California (Del Norte, Humboldt, Lake, Lassen, Marin, Mendocino, Modoc, Napa, Shasta, Siskiyou, Solano, Sonoma, Trinity, and Yolo Counties)

While all other Medi-Cal managed care plans must be licensed with DMHC under the Knox-Keene Act, COHS plans do not have to be licensed and are exempt. The COHS plans instead enter into contract with the state and this encompasses many, but not all, Knox Keene protections. Most COHS plans have at least one other line of business with DMHC and are familiar with DMHC requirements.

NEED FOR LEGISLATION

Knox-Keene licensure brings with it many important consumer protections including:

Independent Medical Review (IMR): Allows a consumer in DMHC plans to appeal denials of care to an independent panel of medical experts. Consumers in COHS plans cannot access the IMR process and their only recourse is a state fair hearing before a non-medical Administrative Law Judge. The IMRs are quicker, whereas a fair hearing can take weeks just to schedule a hearing date.

DMHC External Review: For issues outside IMR, such as whether a service is a covered benefit, consumers in Knox-Keene licensed plans can appeal to DMHC, but consumers in COHS plans do not have the right to this process.

Continuity of Care: Knox-Keene Act has protections for consumers with particular health conditions to continue getting care from an out-of-network provider.

Network Adequacy: Knox-Keene licensed plans must publically ensure adequate provider networks and existing Medi-Cal contracts for COHS plans do not require this.

SOLUTION

SB 260 will ensure greater equity across Medi-Cal managed care plans by affording all consumer protections for COHS plan enrollees. Given that about 2 million enrollees are in a COHS plan and the state pays for these services, it is critical that there be uniform oversight to ensure quality and accessible care.

SUPPORT

Western Center on Law and Poverty (Sponsor)
American Federation of State, County and
Municipal Employees, AFL-CIO
Autism Deserves Equal Coverage Foundation
Autism Speaks
California Advocates for Nursing Home
Reform
California Medical Association
California Rural Legal Assistance Foundation
Center for Autism and Related Disorders
Health Access
Justice in Aging
Legal Aid Society of Orange County
Legal Services of Northern California
National Health Law Program
Project Inform
Youth Law Center

OPPOSITION

CalOptima
CenCal Health
Gold Coast Health Plan
Partnership HealthPlan of California

FOR MORE INFORMATION

Contact: Ryan Guillen
Phone: (916) 651-4017
Email: ryan.guillen@sen.ca.gov

AMENDED IN ASSEMBLY JULY 14, 2015

AMENDED IN ASSEMBLY JUNE 25, 2015

AMENDED IN ASSEMBLY MAY 27, 2015

SENATE BILL

No. 260

Introduced by Senator Monning

February 18, 2015

An act to amend Section 10820 of the Corporations Code, to amend Sections 1343 and 101750.5 of the Health and Safety Code, and to amend Section 14499.5 of, and to repeal and add Section 14087.95 of, the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 260, as amended, Monning. Medi-Cal: county organized health systems: pilot programs.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. One method by which these services are provided is pursuant to contracts with various types of managed care health plans, including through a county organized health system.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene), provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime.

Existing law provides the California Medical Assistance Commission with the authority to negotiate exclusive contracts with county organized health systems to provide health care services under the Medi-Cal

program. Under existing law, the contracting counties are exempt from Knox-Keene for purposes of carrying out those contracts.

This bill would repeal that exemption and ~~deleted~~ *delete* related exemptions, deem a county contracting with the department under the provisions described above to be a health care service ~~plan~~, *plan as of specified dates*, and subject contracting counties to the act for purposes of carrying out those contracts, unless the act expressly provides otherwise. The bill would make conforming changes.

Because a willful violation of Knox-Keene is a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 10820 of the Corporations Code is
2 amended to read:

3 10820. (a) "Health care service plan," as used in this section
4 means a corporation that is a health care service plan defined in
5 the Knox-Keene Health Care Service Plan Act of 1975 (Chapter
6 2.2 (commencing with Section 1340) of Division 2 of the Health
7 and Safety Code), other than a corporation that is exempted from
8 that act by subdivision (c) of Section 1343 of the Health and Safety
9 Code.

10 (b) A health care service plan may be formed under or subject
11 to Part 2 (commencing with Section 5110) of this division or Part
12 3 (commencing with Section 7110) of this division.

13 SEC. 2. Section 1343 of the Health and Safety Code is amended
14 to read:

15 1343. (a) This chapter shall apply to health care service plans
16 and specialized health care service plan contracts as defined in
17 subdivisions (f) and (o) of Section 1345.

18 (b) The director may by the adoption of rules or the issuance of
19 orders deemed necessary and appropriate, either unconditionally
20 or upon specified terms and conditions or for specified periods,

1 exempt from this chapter any class of persons or plan contracts if
2 the director finds the action to be in the public interest and not
3 detrimental to the protection of subscribers, enrollees, or persons
4 regulated under this chapter, and that the regulation of the persons
5 or plan contracts is not essential to the purposes of this chapter.

6 (c) Upon the request of the Director of Health Care Services,
7 the director may exempt from this chapter any mental health plan
8 contractor or any capitated rate contract under Chapter 8.9
9 (commencing with Section 14700) of Part 3 of Division 9 of the
10 Welfare and Institutions Code. Those exemptions may be subject
11 to conditions the Director of Health Care Services deems
12 appropriate.

13 (d) This chapter shall not apply to:

14 (1) A person organized and operating pursuant to a certificate
15 issued by the Insurance Commissioner unless the entity is directly
16 providing the health care service through those entity-owned or
17 contracting health facilities and providers, in which case this
18 chapter shall apply to the insurer's plan and to the insurer.

19 (2) A plan directly operated by a bona fide public or private
20 institution of higher learning which directly provides health care
21 services only to its students, faculty, staff, administration, and their
22 respective dependents.

23 (3) A person who does all of the following:

24 (A) Promises to provide care for life or for more than one year
25 in return for a transfer of consideration from, or on behalf of, a
26 person 60 years of age or older.

27 (B) Has obtained a written license pursuant to Chapter 2
28 (commencing with Section 1250) or Chapter 3.2 (commencing
29 with Section 1569).

30 (C) Has obtained a certificate of authority from the State
31 Department of Social Services.

32 (4) The Major Risk Medical Insurance Board when engaging
33 in activities under Chapter 8 (commencing with Section 10700)
34 of Part 2 of Division 2 of the Insurance Code, Part 6.3
35 (commencing with Section 12695) of Division 2 of the Insurance
36 Code, and Part 6.5 (commencing with Section 12700) of Division
37 2 of the Insurance Code.

38 (5) The California Small Group Reinsurance Fund.

39 SEC. 3. Section 101750.5 of the Health and Safety Code is
40 amended to read:

1 101750.5. For the purposes of Division 3.6 (commencing with
2 Section 810) of Title 1 of the Government Code, the authority shall
3 be considered a public entity separate from the county or counties
4 and shall file the statement required by Section 53051 of the
5 Government Code.

6 SEC. 4. Section 14087.95 of the Welfare and Institutions Code
7 is repealed.

8 SEC. 5. Section 14087.95 is added to the Welfare and
9 Institutions Code, to read:

10 14087.95. ~~A~~—(a) *Subject to subdivision (b), a county*
11 *contracting with the department pursuant to this article shall be*
12 *deemed to be a health care service plan, as defined in Section 1345*
13 *of the Health and Safety Code, and shall be subject to the*
14 *Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2*
15 *(commencing with Section 1340) of Division 2 of the Health and*
16 *Safety Code) for the purpose of carrying out those contracts, unless*
17 *the act expressly provides otherwise.*

18 (b) (1) *A county organized health system under subdivision (a)*
19 *that holds a license under the Knox-Keene Health Care Service*
20 *Plan Act of 1975 on December 31, 2015, to provide the product*
21 *described in subdivision (a), shall be subject to this section on and*
22 *after January 1, 2016.*

23 (2) *A county organized health system under subdivision (a) that*
24 *holds a license under the Knox-Keene Health Care Service Plan*
25 *Act of 1975 on December 31, 2015, for any product not described*
26 *in subdivision (a) that is subject to the act, shall be subject to this*
27 *section on and after January 1, 2017.*

28 (3) *A county organized health system under subdivision (a) that*
29 *does not hold a license under the Knox-Keene Health Care Service*
30 *Plan Act of 1975 on December 31, 2015, to provide the product*
31 *described in subdivision (a) or any other product that is subject*
32 *to the act, shall be subject to this section on and after July 1, 2017.*

33 SEC. 6. Section 14499.5 of the Welfare and Institutions Code
34 is amended to read:

35 14499.5. (a) (1) In carrying out the intent of this article, the
36 director shall contract for the operation of one local pilot program.
37 Special consideration shall be given to approving a program
38 contracted through county government in Santa Barbara County.

39 (2) Notwithstanding the limitations contained in Section 14490,
40 the director may enter into, or extend, contracts with the local pilot

1 program in Santa Barbara County pursuant to paragraph (1) for
2 periods that do not exceed three years.

3 (b) The establishment of a pilot program pursuant to this section
4 shall be contingent upon the availability of state and federal
5 funding. The program shall include the following components:

6 (1) Local authority for administration, fiscal management, and
7 delivery of services, but not including eligibility determination.

8 (2) Physician case management.

9 (3) Cost containment through provider incentives and other
10 means.

11 (c) The program for the pilot project shall include a plan and
12 budget for delivery of services, administration, and evaluation.
13 During the first year of the pilot program, the amount of the state
14 contract shall equal 95 percent of total projected Medi-Cal
15 expenditures for delivery of services and for administration based
16 on fee-for-service conditions in the program county. During the
17 remaining years of the pilot project Medi-Cal expenditures in the
18 program county shall be no more than 100 percent of total projected
19 expenditures for delivery of services and for administration based
20 on any combination of the following paragraphs:

21 (1) Relevant prior fee-for-service Medi-Cal experience in the
22 program county.

23 (2) The fee-for-service Medi-Cal experience in comparable
24 counties or groups of counties.

25 (3) Medi-Cal experience of the pilot project in the program
26 county if, as determined by the department, the scope, level, and
27 duration of, and expenditures for, any services used in setting the
28 rates under this paragraph would be comparable to fee-for-service
29 conditions were they to exist in the program county and would be
30 more actuarially reliable for use in ratesetting than data available
31 for use in applying paragraph (1) or (2).

32 The projected total expenditure shall be determined annually
33 according to an acceptable actuarial process. The data elements
34 used by the department shall be shared with the proposed
35 contractor.

36 (d) The director shall accept or reject the proposal within 30
37 days after the date of receipt. If a decision is made to reject the
38 proposal, the director shall set forth the reasons for this decision
39 in writing. Upon approval of the proposal, a contract shall be
40 written within 60 days. After signature by the local contractor, the

1 State Department of Health Care Services and the Department of
2 General Services shall execute the contract within 60 days.

3 (e) The director shall seek the necessary state and federal
4 waivers to enable operation of the program. If the federal waivers
5 for delivery of services under this plan are not granted, the
6 department is under no obligation to contract for implementation
7 of the program.

8 (f) Dental services may be included within the services provided
9 in this pilot program.

10 (g) Any federal demonstration funding for this pilot program
11 shall be made available to the county within 60 days upon
12 notification of the award without the state retaining any portion
13 not previously specified in the grant application as submitted.

14 (h) (1) (A) The department may negotiate exclusive contracts
15 and rates with the Santa Barbara Regional Health Authority in the
16 implementation of this section.

17 (B) Contracts entered into under this article may be on a
18 noncompetitive bid basis and shall be exempt from Chapter 2
19 (commencing with Section 10290) of Part 2 of Division 2 of the
20 Public Contract Code.

21 (C) The department shall enter into contracts pursuant to this
22 article, and shall be bound by the terms and conditions related to
23 the rates negotiated by the negotiator.

24 (2) The department shall implement this subdivision to the extent
25 that the following apply:

26 (A) Its implementation does not revise the status of the pilot
27 program as a federal demonstration project.

28 (B) Existing federal waivers apply to the pilot program as
29 revised by this subdivision, or the federal government extends the
30 applicability of the existing federal waivers or authorizes additional
31 federal waivers for the implementation of the program.

32 (3) The implementation of this subdivision shall not affect the
33 pilot program's having met any of the requirements of Part 3.5
34 (commencing with Section 1175) of Division 1 of the Health and
35 Safety Code and this division applicable to the pilot program with
36 respect to the negotiations of contracts and rates by the department.

37 SEC. 7. No reimbursement is required by this act pursuant to
38 Section 6 of Article XIII B of the California Constitution because
39 the only costs that may be incurred by a local agency or school
40 district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the penalty
2 for a crime or infraction, within the meaning of Section 17556 of
3 the Government Code, or changes the definition of a crime within
4 the meaning of Section 6 of Article XIII B of the California
5 Constitution.

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Date of Hearing: July 7, 2015

ASSEMBLY COMMITTEE ON HEALTH
Rob Bonta, Chair
SB 260 (Monning) – As Amended June 25, 2015

SENATE VOTE: 37-0

SUBJECT: Medi-Cal: county organized health systems: pilot programs.

SUMMARY: Deems a county organized health system (COHS) to be a health care service plan (plan) subject to the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act). Specifically, **this bill:**

- 1) Repeals an exemption for counties contracting with the Department of Health Care Services (DHCS) for the purposes of providing or arranging for the provision of health care services to Medi-Cal beneficiaries (referred to as COHS) from the Knox-Keene Act.
- 2) Deems a COHS subject to the Knox-Keene Act for the purposes of carrying out those contracts with DHCS as a health care service plan unless expressly provided otherwise by the Knox-Keene Act.
- 3) Makes conforming changes related to the repeal of the exemption referenced in 1) above.

EXISTING LAW:

- 1) Establishes the Medi-Cal program, administered by DHCS, under which qualified low-income individuals receive health care services.
- 2) Establishes the Knox-Keene Act, the body of law governing health care service plans which provides for the licensure and regulation plans by the Department of Managed Health Care (DMHC).
- 3) Authorizes DHCS to negotiate exclusive contracts with any county which seeks to establish a COHS to provide, or arrange for the provision of health care services, to Medi-Cal beneficiaries, and to negotiate the rates, terms, and conditions of COHS contracts and contract amendments.
- 4) Requires DHCS, through a method independent of any agency of the county, to monitor the level and quality of services provided in a COHS county, as well as the county's expenditures pursuant to the contract, and to ensure conformity with federal law.
- 5) Exempts COHS from the Knox-Keene Act for the purposes of carrying out contracts to provide, or arrange for, services to Medi-Cal beneficiaries.
- 6) Cross-references the COHS exemption in certain codes, and provides for related exemptions specific to certain COHS.
- 7) Requires COHS to obtain a license under the Knox-Keene Act if the COHS seeks a contract with the federal government to provide Medicare services as a Medicare Advantage program.

FISCAL EFFECT: This bill, as currently amended, has not yet been analyzed by a fiscal committee.

COMMENTS:

1) PURPOSE OF THIS BILL. According to the author, this bill will ensure greater equity across Medi-Cal managed care (MCMC) plans by affording all consumer protections to COHS plan enrollees. The author reports that most COHS plans already have at least one other line of business licensed under the Knox-Keene Act. As such, these plans are already familiar with Knox-Keene Act licensure and DMHC regulation, and the requirement of obtaining a Knox-Keene license will not be overly burdensome. The author argues that requiring COHS to obtain a Knox-Keene Act license will ensure uniform standards and regulation for all MCMC plans, and will extend important protections that accompany Knox-Keene Act licensure to Medi-Cal beneficiaries in COHS plans that they cannot access today, including Independent Medical Review (IMR), DMHC External Review, and others. The author states that, while COHS plans do a good job at providing quality managed health care for Medi-Cal beneficiaries throughout the 22 COHS counties, there have been cases where Medi-Cal beneficiaries would have benefited from the additional consumer protections provided under the Knox-Keene Act, and would have received a better health outcome had they simply lived in a county that was not served by a COHS plan. The author concludes that the time has come for all Medi-Cal plans to have a standard form of regulation.

2) BACKGROUND.

a) MCMC. There are two main systems for the delivery of services to Medi-Cal beneficiaries: fee-for-service (FFS) and MCMC. MCMC is an organized system for the delivery of medical services in which DHCS contracts with public and private managed care plans to provide health care coverage for Medi-Cal beneficiaries. Managed care plans receive monthly capitated payments from the state, and are responsible for organizing provider networks and ensuring that care delivery meets statutory and contractual standards, including standards related to access, availability, and quality.

Enrollment in MCMC has dramatically grown in recent years as a result of several initiatives to mandate beneficiary enrollment in MCMC. As of April 2015, out of approximately 12 million total Medi-Cal beneficiaries, MCMC serves approximately 9.4 million throughout the state's 58 counties. The state uses six MCMC models of managed care, including:

- i)** Geographic managed care (GMC) which offers beneficiaries multiple commercial plans to choose from;
- ii)** Two-Plan model which provides beneficiaries a choice between one commercial and one public plan (referred to as a Local Initiative (LI));
- iii)** COHS, where DHCS contracts with a COHS created by a County Board of Supervisors to be the sole administrator of Medi-Cal benefits for an entire county.
- iv)** Regional and Imperial models in which beneficiaries may choose between two commercial MCMC plans; and,

v) San Benito model in which beneficiaries may choose between a commercial MCMC plan and FFS.

b) **MCMC regulation.** All MCMC plans, except for five of the six COHS, are subject to dual oversight by DHCS and DMHC. MCMC plans enter into contracts with DHCS in order to provide or arrange services for Medi-Cal beneficiaries. While, federal and state laws establish the rules that govern MCMC plans, many significant requirements are established and enforced by DHCS through these contracts, including compliance with financial viability and standards; quality improvement systems; utilization management; and, access and provider networks. The requirements set forth in the contracts largely mirror those required by the Knox-Keene Act.

MCMC plans, with the exception of COHS, are required to obtain a Knox-Keene Act license for their Medi-Cal lines of business. DMHC licenses and regulates health maintenance organizations (HMOs) and some preferred provider organizations. As an organization designed for consumer protection, the mission of DMHC is to regulate and provide quality of care and fiscal oversight of plans. It achieves this mission, in part, by administering and enforcing the Knox-Keene Act.

Both DMHC and DHCS perform periodic reviews and audits of MCMC plans. Specifically, state law requires DHCS to perform annual medical audits of each MCMC plan to determine, among other things, the health plans' ability to provide quality health care services and to assess the overall plan performance in providing health care benefits to Medi-Cal beneficiaries. DMHC performs medical surveys of all of the MCMC plans with a Knox-Keene Act license every three years, also evaluating the plans' compliance with Knox-Keene Act licensure requirements, including quality of care, and overall performance in providing health care benefits and meeting the health care needs of enrollees. Recent legislation requires DMHC to review compliance with timely access requirements on an annual basis, rather than triennially.

Reviews by both DMHC and DHCS include many overlapping areas. For example, they both review utilization management, access and availability of services, quality management, grievances and appeals, case management and coordination of care, access to emergency services and payment, and prescription drug benefits and authorization process. In recent years, DMHC and DHCS have made efforts to coordinate their oversight of MCMC plans so as to reduce burden on the plans. For example, in years in which an MCMC plan will be audited by both DMHC and DHCS, they attempt to coordinate the audits so they can be performed at the same time, rather than requiring plans to under separate surveys.

Additionally, through interagency agreements required by recent trailer bill legislation, DMHC is contracted by DHCS to perform specified oversight responsibilities with regard to specific Medi-Cal enrollee populations, including beneficiary populations transition into MCMC plans from FFS or other programs, including seniors and persons with disabilities, former Health Family Program enrollees, Medi-Cal beneficiaries in the rural managed care expansion, and enrollees in the Coordinated Care Initiative. Some of the contracted duties to be performed by DMHC are financial audits, medical surveys, plan readiness review, and review of the adequacy of managed care health plan provider networks.

- c) **COHS.** According to the National Health Law Program, in 1981, Congress passed a federal law aimed at encouraging the proliferation of Medicaid managed care programs by allowing states to waive certain Medicaid requirements if they contracted with government-run prepaid plans that did not federally qualify as HMOs. Under federal law, only a limited number of such plans may operate, and enrollment is capped. In 1982, California legislation authorized the first COHS to deliver managed care services to Medi-Cal beneficiaries.

Today, there are six COHS operating in 22 counties, and serving approximately 2.1 million Medi-Cal beneficiaries. Almost all Medi-Cal-eligible beneficiaries in COHS counties, including those enrolled in both Medi-Cal and Medicare (referred to as "dual-eligibles") and individuals with a share of cost, are mandatorily enrolled into the COHS plan. Below is a list of the COHS, the counties they serve, and the number of enrollees:

COHS	Counties	Number of enrollees as of May 2015
CalOptima	Orange	746,767
CenCal Health	Santa Barbara San Luis Obispo	163,264
Central California Alliance for Health	Santa Cruz, Monterey, Merced	331,148
Gold Coast Health Plan	Ventura	190,750
Health Plan of San Mateo	San Mateo	106,080
Partnership Health Plan of California	Del Norte, Humboldt, Lake, Lassen, Marin, Mendocino, Modoc, Napa, Shasta, Siskiyou, Solano, Sonoma, Trinity, and Yolo Counties	542,890
Total COHS Enrollment		2,080,899

- d) **COHS and Knox-Keene Act licensure.** COHS are exempt from requirements to obtain Knox-Keene Act licensure. According to a 2004 report from the Pacific Health Consulting Group entitled, "An S.O.S for the COHS: Preserving County Organized Health Systems," COHS were granted a waiver from compliance with the Knox-Keene Act because they were initially limited to Medi-Cal, not engaged in competition, and publicly-operated. In contrast, LIs, established in response to the Two-Plan model, were required to comply with the Knox-Keene Act for Medi-Cal and well as other lines of business.

Despite the exemption, one COHS, the Health Plan of San Mateo, voluntarily obtained a Knox-Keene Act license. Additionally, all other COHS, except for Gold Coast Health Plan, have obtained a Knox-Keene Act license for other, non-Medi-Cal lines of business.

Below is a table outlining the specific products for which each COHS already has a Knox-Keene Act license:

COHS	Knox-Keene Act licensed product
CalOptima	Medicare Advantage
CenCal Health	Medi-Cal Access Program (formerly known as Access for Infants & Mothers)
Central California Alliance for Health	In-Home Supportive Services Healthy Kids Medi-Cal Access Program
Health Plan of San Mateo	In-Home Supportive Services Health Kids Medicare Advantage Medi-Cal
Partnership Health Plan of California	Healthy Kids

Under this bill, Gold Coast Health Plan would be required to file for initial licensure with DMHC in order to obtain a Knox-Keene Act license. However, according to DMHC, COHS which already have a Knox-Keene Act license for non-Medi-Cal products would be required to file a "material modification" to their existing licenses to add their MCMC plan as a new product. According to DMHC, material modification filings and review are similar to that of initial licensure filings, but take less time in part because DMHC has already reviewed certain information about the plan that is on file with the plan's other licensed product. For example, DMHC will have already reviewed the plan's governance and administration.

Additionally, when DMHC reviews a licensed plan's overall financial viability, the department includes the plan's Medi-Cal product in its review. This is an important function, as DMHC has previously identified serious financial issues within MCMC plans. For example, as a result of DMHC's financial oversight, the department was able to identify serious financial solvency issues with one public MCMC plan, Alameda Alliance for Health, which resulted in the plan being placed in receivership by DMHC.

According to DMHC, it currently takes approximately one year to review an application for initial licensure. Material modifications currently take approximately six months to review.

- e) **Knox-Keene Act licensure fees.** Plans licensed under the Knox-Keene Act are required to pay fees to DMHC to support the costs and expenses associated with their licensure and regulation, and also to support DMHC's Office of the Patient Advocate (OPA) which assists and collects data from state health care consumer assistance call centers in order to enable consumer to access services for which they are eligible. For the 2015-16 fiscal year, full-service plans are required to pay \$1.42 per covered life, plus \$0.05 per covered

life to support OPA. Plans are also required to pay \$0.07 per covered life to support the California Health Benefits Review Program (CHBRP), a program within the University of California (UC) that, upon request by the Legislature, assesses legislation proposing to mandate or repeal a benefit or service. Plans pay the CHBRP fees to DMHC, which passes through the funds to the UC.

- f) **Consumer assistance and protection.** DHCS' MCMC contracts mirror most of the requirements contained in the Knox-Keene Act, but there are some differences. For example, DHCS contracts contain stricter time and distance standards, requiring primary care physicians to be available within 10 miles or 30 minutes of an enrollee's workplace or residence as compared to 15 miles or 30 minutes required by the Knox-Keene Act. The most notable difference in consumer protections is with regard to IMR of disputed health care services and external review of disputed coverage decisions.
- i) **IMR.** The Knox-Keene Act requires DMHC to establish an IMR system through which all plan enrollees, including MCMC enrollees in Knox-Keene Act licensed plans, may request an objective review by independent clinical professionals of a decision by a plan to deny, modify, or delay a health care service or treatment based on the plan's determination that the service or treatment is not medically necessary, deny coverage of an experimental or investigational treatment, or pay for emergency or urgent medical services already received.

DMHC contracts with an IMR organization, which, pursuant to existing law, is independent of any plan doing business in the State of California. The IMR organization, and the medical professionals retained to conduct reviews, are prohibited from having any material, professional, financial, or other affiliation with the plan or the enrollee.

In order to obtain an IMR, an enrollee must first file a grievance with the plan which has 30 days to resolve the grievance, or 72 hours in cases involving imminent and serious threat to the health of the enrollee. If the plan upholds its decision, or does not resolve the grievance within the required timeframe, the enrollee may request an IMR. IMR decisions are made within 30 days, or within three to seven days, if the case is urgent.

If an IMR is decided in the enrollee's favor, the plan is required to authorize the service. If the IMR is not decided in the enrollee's favor, the enrollee may not appeal the decision, but may still be able to take legal action. According to DMHC's website, approximately 60% of IMRs decisions are made favoring the enrollee. According to a 2013 report by DMHC regarding IMR, during the 2013 calendar year, DMHC resolved 1,547 IMRs; enrollees received the requested services in more than 54% of the IMR cases. In nearly one quarter of the cases (23%), the health plan reversed its denial after DMHC received the IMR application, but prior to IMR review.

- ii) **Medi-Cal fair hearings.** MCMC beneficiaries have the option to request a state fair hearing, in lieu of an IMR, if a beneficiary receives notice that a medical service has been denied, deferred, or modified. Medi-Cal hearings are heard by Administrative Law Judges (ALJ) from the State Hearings Division of the Department of Social

Services. During the hearing, the claimant must be allowed to present witnesses, evidence, arguments, and confront and cross-examine adverse witnesses. Medi-Cal hearings include giving testimony under oath and submitting evidence into the record. The process is designed to be fair to unrepresented laypersons and is therefore more relaxed than a formal court proceeding.

After a fair hearing, a decision will be sent to the claimant and their representative. The hearing decision must be in writing and completed within 90 days of the fair hearing request. The decision issued by the ALJ in a Medi-Cal hearing is a proposed decision, which within 75 days is filed with the Director of DHCS who reviews the proposed decision. The proposed decision is adopted, changed, or set for further hearing. If the Director takes no action within 30 days of receiving the proposed decision, it is deemed adopted.

MCMC beneficiaries may choose to request an IMR or file for a state fair hearing. Since COHS are not required to obtain a Knox-Keene Act license, COHS beneficiaries, with exception of beneficiaries of the Health Plan of San Mateo, do not have the option to request an IMR.

iii) MCMC ombudsman and DMHC Help Center. MCMC beneficiaries in Knox-Keene Act licensed MCMC plans may choose to seek assistance from either DHCS's MCMC ombudsman, which investigates and resolves complaints by or on behalf of MCMC beneficiaries, or DMHC's Help Center, which provides information to consumers about their rights and protections under the Knox-Keene Act, handles complaints, and accepts IMR requests. COHS beneficiaries may obtain assistance from the MCMC ombudsman, but the Help center is designed to assist consumers in Knox-Keene Act-licensed plans.

A recent report by the California State Auditor found that the MCMC ombudsman does not have a telephone system to handle the volume of calls it receives from beneficiaries or the adequate staff to answer all of the calls that the telephone system rejects. Specifically, the telephone system rejected 7,000 to 45,000 calls per month between February 2015 and January 2015. Additionally, due to staffing limitations, the ombudsman is able to answer an average of 30% to 50% of the calls the telephone system has accepted.

3) SUPPORT. Supporters argue that over two million Medi-Cal beneficiaries are served by COHS, and they should have access to the same regulatory structure and Knox-Keene Act protections as all other Medi-Cal beneficiaries. Supporters state that the current exemption from the Knox-Keene Act allows for a separate standard for consumer protection that does not include certain protections such as IMR or external review for disputes over covered benefits, and that bill ensures uniform protections and creates equity across all MCMC plans.

The Western Center on Law and Poverty (WCLP), the sponsor of this bill, and other supporters cite stories of Californians who have had care denied by their COHS, and could not use IMR or DMHC complaint review processes to resolve the conflicts. While other Medi-Cal beneficiaries can choose between IMR and a Medi-Cal state fair hearing, consumers in COHS can only opt for a state fair hearing if they disagree with a decision made by their plan. Supporters assert that Medi-Cal beneficiaries in non-COHS counties can

generally resolve medical necessity denials within 30 days, or 72 hours for urgent cases, using the IMR process, COHS beneficiaries may have to wait weeks or months to resolve their disputes using the state fair hearings process.

WCLP argues that COHS started as small pilot programs back in the early 1980's, but now provide coverage to over two million Californians on Medi-Cal. Given their size, range, and complexity, it is important that COHS are subject to proper regulatory oversight. WCLP also argues that, given that all other Medi-Cal plans, including the public LI plans, must be licensed by DMHC, it does not make sense to exempt COHS plans.

- 4) OPPOSITION.** Four of the six COHS oppose this bill arguing that it will result in unnecessary, duplicative regulatory and financial burdens on the COHS, which are already providing high-quality care to, and maintaining high quality ratings among, Medi-Cal beneficiaries. The opponents state that they are already overseen by both the federal government and DHCS, and adding a third regulator will add costs to both COHS and the state without providing tangible value received in return. The opponents state that, through their contracts with DHCS, COHS are already required to meet relevant Knox-Keene Act standards, and requiring additional regulation to address singular concerns such as establishing an IMR process is unnecessary, inefficient, and expensive. The opponents state that a Knox-Keene Act license is not necessary to establish an IMR, and they are willing to establish an IMR process outside of Knox-Keene Act regulation. The opponents further argue that, by requiring COHS to pay fees for Knox-Keene Act licensure, this bill will reduce the amount of funding they are able to spend on direct services to MCMC beneficiaries, including transportation, podiatry, vision, and other supplemental non-Medi-Cal benefits currently provided to Medi-Cal beneficiaries.

Partnership Health Plan of California argues that its existing complaint, grievance, and appeal process has multiple doctors engaged at many different points in the process, and that the introduction of a new type of review will interrupt its ability to collaboratively work with the member's health home to reach a common resolution. Further, Partnership Health Plan of California argues that adding DMHC as a regulator will result in COHS receiving conflicting medical decisions from IMR and ALJs for the same member case types. CenCalHealth argues that a Knox-Keene Act license is a commercial license developed and intended for private health plans competing in a commercial marketplace, and since COHS are public entities administering a publicly-sponsored program and do not compete or otherwise perform many functions of a commercial insurer, COHS plans should not be subject to Knox-Keene Act licensure. Gold Coast Health Plan opposes this bill unless amended to eliminate requirements for COHS to obtain a Knox-Keene Act license, and to only require COHS to establish an IMR process, including using the same IMR contractor that DMHC contracts with.

5) PREVIOUS LEGISLATION.

- a)** SB 964 (Ed Hernandez), Chapter 573, Statutes of 2014, increases oversight of plans with respect to compliance with timely access and provider network adequacy standards; requires plans to annually report specified network adequacy data, including separate MCMC and individual market product line data to DMHC and requires DMHC to review plan compliance with timely access standards on an annual basis. Requires DHCS to

share with DMHC monthly provider files submitted by MCMC plans, and its findings from MCMC plan audits.

- b) SB 94 (Committee on Budget and Fiscal Review), Chapter 37, Statutes of 2013, requires DHCS to enter into an interagency agreement with DMHC to, on its behalf, have DMHC conduct various oversight functions of MCMC plans participating in the MCMC expansion into rural counties, and to transitions of SPDs into MCMC.
- c) AB 1494 (Committee on Budget), Chapter 28, Statutes of 2012, requires DHCS, with respect to the transition of HFP enrollees to MCMC, to consult and collaborate with DMHC in assessing MCMC plan network adequacy in accordance with Knox-Keene.

6) SUGGESTED AMENDMENTS. As stated in the analysis, it currently takes approximately one year for DMHC to complete its review of an application for an initial Knox-Keene Act license, and approximately six months to complete the review of an application for a material modification. This bill would require all COHS to have a Knox-Keene Act license by January 1, 2016. This implementation date would not allow enough time for the submission, review, and approval of either an initial license, or a material modification. The Committee may wish to amend the bill to delay implementation for the five COHS plans that need to file for a Knox-Keene Act License with implementation dates that reflect the general timeframe needed to obtain licensure. Specifically, the Committee may wish to consider a January 1, 2017 implementation date for the four COHS that must file material modifications and a July 1, 2017 implementation date for Gold Coast Health Plan which must file an initial licensure application. These timeframes will grant COHS time to prepare to submit the licensure filings with DMHC and for DMHC to complete its review in order to grant licensure.

REGISTERED SUPPORT / OPPOSITION:

Support

California Medical Association
California Rural Legal Assistance Foundation
Health Access California
Justice in Aging
Legal Services of Northern California
National Health Law Program
Project Inform
Western Center on Law and Poverty (sponsor)
Youth Law Center

Opposition

CenCal
CalOptima
Partnership Health Plan of California
Gold Coast Health Plan (unless amended)

Analysis Prepared by: Kelly Green / HEALTH / (916) 319-2097

SENATE BILL

No. 5

**Introduced by Senator Leno
(Coauthors: Senators Beall, Hernandez, Liu, McGuire, Mitchell,
and Pan)**

July 16, 2015

An act to amend Sections 22950.5, 22958, and 22962 of, to amend, repeal, and add Sections 22973 and 22980.2 of, and to add Section 22971.7 to, the Business and Professions Code, to amend Section 1947.5 of the Civil Code, to amend Section 48901 of the Education Code, to amend Section 7597 of the Government Code, to amend Sections 1234, 1286, 1530.7, 1596.795, 104495, 114332.3, 114371, 118910, 118925, and 118948 of, to add Section 119406 to, and to repeal Section 119405 of, the Health and Safety Code, to amend Section 6404.5 of the Labor Code, to amend Section 308 of the Penal Code, to amend Sections 561 and 99580 of the Public Utilities Code, and to amend Section 12523 of the Vehicle Code, relating to electronic cigarettes.

LEGISLATIVE COUNSEL'S DIGEST

SB 5, as introduced, Leno. Electronic cigarettes.

Existing law, the Stop Tobacco Access to Kids Enforcement (STAKE) Act, prohibits a person from selling or otherwise furnishing tobacco products to minors. Existing law permits enforcing agencies to assess various civil penalties for violations of the STAKE Act. Existing law makes it a crime to furnish tobacco products to minors. Existing law also prohibits a person from selling or otherwise furnishing an electronic cigarette to minors, and makes a violation punishable as an infraction.

This bill would define the term “smoking” for purposes of the STAKE Act. The bill would also change the STAKE Act’s definition of “tobacco

products” to include electronic devices, such as electronic cigarettes, that deliver nicotine or other vaporized liquids, and make furnishing such a tobacco product to a minor a misdemeanor.

Existing law, the Cigarette and Tobacco Products Tax Law, imposes a tax on the distribution of cigarettes and tobacco products at specified rates, and defines tobacco products for those purposes. Existing law, the Cigarette and Tobacco Products Licensing Act of 2003, requires the State Board of Equalization to administer a statewide program to license manufacturers, importers, distributors, wholesalers, and retailers of cigarettes and tobacco products, as defined. Under existing law, a violation of this act is a misdemeanor. Existing law requires a retailer to have in place and maintain a license to engage in the sale of cigarettes or tobacco products, as defined, and prescribes procedures for the issuance of and grounds for revocation or suspension of a license. Existing law requires a retailer who seeks to obtain a license to engage in the sale of cigarettes and tobacco products to pay a one-time license fee of \$100, as specified. Existing law authorizes the State Board of Equalization or a law enforcement agency that discovers that a retailer or other person possesses, stores, owns, or has made a retail sale of tobacco products on which a tax is due but has not been paid to seize those products, and deems those products forfeited, as specified.

This bill would include in the definition of tobacco products for the purposes of those provisions relating to licenses for retailers the STAKE Act’s new definition of tobacco products. This bill would require a retailer that seeks to sell a tobacco product that is not subject to imposition of a tax under the Cigarette and Tobacco Products Tax Law to pay a one-time license fee to engage in the sale of that product, as specified. The bill would except the STAKE Act’s new definition of tobacco products from the provision authorizing seizure of tobacco products described above. The bill would make these provisions operative on October 1, 2016.

Existing law makes it a crime for a person or entity to engage in the business of selling cigarettes or tobacco products without a valid license or after a license has been suspended or revoked, as specified. Existing law also makes it a crime for a person to continue selling or gifting cigarettes or tobacco products without a valid license or after a notification of suspension or revocation, as specified.

This bill would include in the definition of tobacco products for the purposes of those provisions the STAKE Act’s new definition of tobacco products. The bill would require all cartridges for electronic cigarettes

and solutions for filling or refilling an electronic cigarette to be in childproof packaging, as prescribed. The bill would make these provisions operative on October 1, 2016.

Existing law prohibits the smoking of cigarettes and other tobacco products in a variety of specified areas. Under existing law, a violation of some of these prohibitions is punishable as an infraction.

This bill would change the location restrictions for smoking cigarettes and other tobacco products to reflect the STAKE Act’s definitions of smoking and tobacco products. The bill would make the use of electronic cigarettes in some of these restricted locations a violation punishable as an infraction.

Existing law prohibits the smoking of medical marijuana in any place where smoking is prohibited by law.

This bill would declare that its provisions do not affect any law or regulation regarding medical marijuana.

By expanding the scope of a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 22950.5 of the Business and Professions
- 2 Code is amended to read:
- 3 22950.5. For purposes of this division, the following terms
- 4 have the following meanings:
- 5 (a) “Department” means the State Department of Public Health.
- 6 (b) “Enforcing agency” means the State Department of Public
- 7 Health, another state agency, including, but not limited to, the
- 8 office of the Attorney General, or a local law enforcement agency,
- 9 including, but not limited to, a city attorney, district attorney, or
- 10 county counsel.
- 11 (c) “Smoking” means inhaling, exhaling, burning, or carrying
- 12 any lighted or heated cigar, cigarette, or pipe, or any other lighted
- 13 or heated tobacco or plant product intended for inhalation, whether

1 *natural or synthetic, in any manner or in any form. “Smoking”*
 2 *includes the use of an electronic smoking device that creates an*
 3 *aerosol or vapor, in any manner or in any form, or the use of any*
 4 *oral smoking device for the purpose of circumventing the*
 5 *prohibition of smoking.*

6 (d) (1) *“Tobacco product” means any of the following:*

7 (A) *A product containing, made, or derived from tobacco or*
 8 *nicotine that is intended for human consumption, whether smoked,*
 9 *heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or*
 10 *ingested by any other means, including, but not limited to,*
 11 *cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, or*
 12 *snuff.*

13 (B) *An electronic device that delivers nicotine or other vaporized*
 14 *liquids to the person inhaling from the device, including, but not*
 15 *limited to, an electronic cigarette, cigar, pipe, or hookah.*

16 (C) *Any component, part, or accessory of a tobacco product,*
 17 *whether or not sold separately.*

18 (2) *“Tobacco product” does not include a product that has been*
 19 *approved by the United States Food and Drug Administration for*
 20 *sale as a tobacco cessation product or for other therapeutic*
 21 *purposes where the product is marketed and sold solely for such*
 22 *an approved purpose.*

23 SEC. 2. Section 22958 of the Business and Professions Code
 24 is amended to read:

25 22958. (a) An enforcing agency may assess civil penalties
 26 against any person, firm, or corporation that sells, gives, or in any
 27 way furnishes to another person who is under ~~the age 18 years of~~
 28 ~~18 years, age,~~ any tobacco, cigarette, cigarette papers, any other
 29 instrument or paraphernalia that is designed for the smoking or
 30 ingestion of tobacco, ~~products prepared from tobacco,~~ *tobacco*
 31 *products,* or any controlled substance, according to the following
 32 schedule: (1) a civil penalty of ~~from~~ four hundred dollars (\$400)
 33 to six hundred dollars (\$600) for the first violation, (2) a civil
 34 penalty of ~~from~~ nine hundred dollars (\$900) to one thousand dollars
 35 (\$1,000) for the second violation within a five-year period, (3) a
 36 civil penalty of ~~from~~ one thousand two hundred dollars (\$1,200)
 37 to one thousand eight hundred dollars (\$1,800) for a third violation
 38 within a five-year period, (4) a civil penalty of ~~from~~ three thousand
 39 dollars (\$3,000) to four thousand dollars (\$4,000) for a fourth
 40 violation within a five-year period, or (5) a civil penalty of ~~from~~

1 five thousand dollars (\$5,000) to six thousand dollars (\$6,000) for
2 a fifth violation within a five-year period.

3 (b) (1) In addition to the civil penalties described in subdivision
4 (a), upon the assessment of a civil penalty for the third, fourth, or
5 fifth violation, the department, within 60 days of the date of service
6 of the final administrative adjudication on the parties or payment
7 of the civil penalty for an uncontested violation, shall notify the
8 State Board of Equalization of the violation. The State Board of
9 Equalization shall then assess a civil penalty of two hundred fifty
10 dollars (\$250) and suspend or revoke a license issued pursuant to
11 Chapter 2 (commencing with Section 22972) of Division 8.6 in
12 accordance with the following schedule:

13 (A) A 45-day suspension of the license for a third violation at
14 the same location within a five-year period.

15 (B) A 90-day suspension of the license for a fourth violation at
16 the same location within a five-year period.

17 (C) Revocation of the license for a fifth violation at the same
18 location within a five-year period.

19 (2) The provisions of Chapter 4 (commencing with Section
20 55121) of Part 30 of Division 2 of the Revenue and Taxation Code
21 apply with respect to the collection of the penalty imposed by the
22 State Board of Equalization pursuant to paragraph (1).

23 (c) (1) For each suspension or revocation pursuant to
24 subdivision (b), the civil penalty of two hundred fifty dollars (\$250)
25 assessed pursuant to that subdivision, notwithstanding Section
26 22953, shall be deposited into the Cigarette and Tobacco Products
27 Compliance Fund established pursuant to Section 22990. Moneys
28 from that civil penalty deposited into this fund shall be made
29 available to the State Board of Equalization, upon appropriation
30 by the Legislature, for the purposes of meeting its duties under
31 subdivision (b).

32 (2) The department shall, upon request, provide to the State
33 Board of Equalization information concerning any person, firm,
34 or corporation that has been assessed a civil penalty for violation
35 of the STAKE Act pursuant to this section when the department
36 has notified the State Board of Equalization of the violation.

37 (d) The enforcing agency shall assess penalties pursuant to the
38 schedule set forth in subdivision (a) against a person, firm, or
39 corporation that sells, offers for sale, or distributes tobacco products
40 from a cigarette or tobacco products vending machine, or a person,

1 firm, or corporation that leases, furnishes, or services these
2 machines in violation of Section 22960.

3 (e) An enforcing agency may assess civil penalties against a
4 person, firm, or corporation that sells or deals in tobacco or any
5 preparation thereof, and fails to post conspicuously and keep posted
6 in the place of business at each point of purchase the notice
7 required pursuant to subdivision (b) of Section 22952. The civil
8 penalty shall be in the amount of two hundred dollars (\$200) for
9 the first offense and five hundred dollars (\$500) for each additional
10 violation.

11 (f) An enforcing agency shall assess penalties in accordance
12 with the schedule set forth in subdivision (a) against a person, firm,
13 or corporation that advertises or causes to be advertised a tobacco
14 product on an outdoor billboard in violation of Section 22961.

15 (g) If a civil penalty has been assessed pursuant to this section
16 against a person, firm, or corporation for a single, specific violation
17 of this division, the person, firm, or corporation shall not be
18 prosecuted under Section 308 of the Penal Code for a violation
19 based on the same facts or specific incident for which the civil
20 penalty was assessed. If a person, firm, or corporation has been
21 prosecuted for a single, specific violation of Section 308 of the
22 Penal Code, the person, firm, or corporation shall not be assessed
23 a civil penalty under this section based on the same facts or specific
24 incident upon which the prosecution under Section 308 of the Penal
25 Code was based.

26 (h) (1) In the case of a corporation or business with more than
27 one retail location, to determine the number of accumulated
28 violations for purposes of the penalty schedule set forth in
29 subdivision (a), violations of this division by one retail location
30 shall not be accumulated against other retail locations of that same
31 corporation or business.

32 (2) In the case of a retail location that operates pursuant to a
33 franchise as defined in Section 20001, violations of this division
34 accumulated and assessed against a prior owner of a single
35 franchise location shall not be accumulated against a new owner
36 of the same single franchise location for purposes of the penalty
37 schedule set forth in subdivision (a).

38 (i) Proceedings under this section shall be conducted pursuant
39 to Section 131071 of the Health and Safety Code, except in cases
40 where a civil penalty is assessed by an enforcing agency other than

1 the department, in which case proceedings shall be conducted
2 pursuant to the procedures of that agency that are consistent with
3 Section 131071 of the Health and Safety Code.

4 SEC. 3. Section 22962 of the Business and Professions Code
5 is amended to read:

6 22962. (a) For purposes of this section, the following terms
7 have the following meanings:

8 (1) “Self-service display” means the open display of tobacco
9 products or tobacco paraphernalia in a manner that is accessible
10 to the general public without the assistance of the retailer or
11 employee of the retailer.

12 (2) “Tobacco paraphernalia” means cigarette papers or wrappers,
13 blunt wraps as defined in Section 308 of the Penal Code, pipes,
14 holders of smoking materials of all types, cigarette rolling
15 machines, or other instruments or things designed for the smoking
16 or ingestion of tobacco products.

17 (3) “Tobacco product” means ~~any a product containing tobacco~~
18 ~~leaf, including, but not limited to, cigarettes, cigars, pipe tobacco,~~
19 ~~snuff, chewing tobacco, dipping tobacco, bidis, or any other~~
20 ~~preparation of tobacco; or device as defined in subdivision (d) of~~
21 *Section 22950.5 of the Business and Professions Code.*

22 (4) “Tobacco store” means a retail business that meets all of the
23 following requirements:

24 (A) Primarily sells tobacco products.

25 (B) Generates more than 60 percent of its gross revenues
26 annually from the sale of tobacco products and tobacco
27 paraphernalia.

28 (C) Does not permit any person under 18 years of age to be
29 present or enter the premises at any time, unless accompanied by
30 the person’s parent or legal guardian, as defined in Section 6903
31 of the Family Code.

32 (D) Does not sell alcoholic beverages or food for consumption
33 on the premises.

34 (b) (1) (A) Except as permitted in subdivision (b) of Section
35 22960, it is unlawful for a person engaged in the retail sale of
36 tobacco products to sell, offer for sale, or display for sale any
37 tobacco product or tobacco paraphernalia by self-service display.
38 A person who violates this section is subject to those civil penalties
39 specified in the schedule in subdivision (a) of Section 22958.

1 (B) A person who violates this section is subject to those civil
2 penalties specified in the schedule in subdivision (a) of Section
3 22958.

4 (2) It is unlawful for a person engaged in the retail sale of blunt
5 wraps to place or maintain, or to cause to be placed or maintained,
6 any blunt wraps advertising display within two feet of candy,
7 snack, or nonalcoholic beverage displayed inside any store or
8 business.

9 (3) It is unlawful for any person or business to place or maintain,
10 or cause to be placed or maintained, any blunt wrap advertising
11 display that is less than four feet above the floor.

12 (c) Subdivision (b) shall not apply to the display in a tobacco
13 store of cigars, pipe tobacco, snuff, chewing tobacco, or dipping
14 tobacco, provided that in the case of cigars they are generally not
15 sold or offered for sale in a sealed package of the manufacturer or
16 importer containing less than six cigars. In any enforcement action
17 brought pursuant to this division, the retail business that displays
18 any of the items described in this subdivision in a self-service
19 display shall have the burden of proving that it qualifies for the
20 exemption established in this subdivision.

21 (d) The Attorney General, a city attorney, a county counsel, or
22 a district attorney may bring a civil action to enforce this section.

23 (e) This section does not preempt or otherwise prohibit the
24 adoption of a local standard that imposes greater restrictions on
25 the access to tobacco products than the restrictions imposed by
26 this section. To the extent that there is an inconsistency between
27 this section and a local standard that imposes greater restrictions
28 on the access to tobacco products, the greater restriction on the
29 access to tobacco products in the local standard shall prevail.

30 SEC. 4. Section 22971.7 is added to the Business and
31 Professions Code, immediately preceding Section 22972, to read:

32 22971.7. (a) For the purposes of this chapter, except as
33 provided in subdivision (b), and notwithstanding subdivision (s)
34 of Section 22971, a “tobacco product” includes a product or device
35 as defined in subdivision (d) of Section 22950.5.

36 (b) This section does not apply to subdivision (b) of Section
37 22974.3.

38 (c) This section shall be operative on October 1, 2016.

39 SEC. 5. Section 22973 of the Business and Professions Code
40 is amended to read:

1 22973. (a) An application for a license shall be filed on or
2 before April 15, 2004, on a form prescribed by the board and shall
3 include the following:

4 (1) The name, address, and telephone number of the applicant.

5 (2) The business name, address, and telephone number of each
6 retail location. For applicants who control more than one retail
7 location, an address for receipt of correspondence or notices from
8 the board, such as a headquarters or corporate office of the retailer,
9 shall also be included on the application and listed on the license.
10 Citations issued to licensees shall be forwarded to all addressees
11 on the license.

12 (3) A statement by the applicant affirming that the applicant
13 has not been convicted of a felony and has not violated and will
14 not violate or cause or permit to be violated any of the provisions
15 of this division or any rule of the board applicable to the applicant
16 or pertaining to the manufacture, sale, or distribution of cigarettes
17 or tobacco products. If the applicant is unable to affirm this
18 statement, the application shall contain a statement by the applicant
19 of the nature of any violation or the reasons that will prevent the
20 applicant from complying with the requirements with respect to
21 the statement.

22 (4) If any other licenses or permits have been issued by the
23 board or the Department of Alcoholic Beverage Control to the
24 applicant, the license or permit number of those licenses or permits
25 then in effect.

26 (5) A statement by the applicant that the contents of the
27 application are complete, true, and correct. Any person who signs
28 a statement pursuant to this subdivision that asserts the truth of
29 any material matter that he or she knows to be false is guilty of a
30 misdemeanor punishable by imprisonment of up to one year in the
31 county jail, or a fine of not more than one thousand dollars
32 (\$1,000), or both the imprisonment and the fine.

33 (6) The signature of the applicant.

34 (7) Any other information the board may require.

35 (b) The board may investigate to determine the truthfulness and
36 completeness of the information provided in the application. The
37 board may issue a license without further investigation to an
38 applicant for a retail location if the applicant holds a valid license
39 from the Department of Alcoholic Beverage Control for that same
40 location.

1 (c) The board shall provide electronic means for applicants to
2 download and submit applications.

3 (d) (1) A one-time license fee of one hundred dollars (\$100)
4 shall be submitted with each application. An applicant that owns
5 or controls more than one retail location shall obtain a separate
6 license for each retail location, but may submit a single application
7 for those licenses with a one-time license fee of one hundred dollars
8 (\$100) per location.

9 (2) The one-time fee required by this subdivision does not apply
10 to an application for renewal of a license for a retail location for
11 which the one-time license fee has already been paid. If a license
12 is reinstated after its expiration, the retailer, as a condition
13 precedent to its reinstatement, shall pay a reinstatement fee of one
14 hundred dollars (\$100).

15 (e) *This section shall become inoperative on October 1, 2016,*
16 *and, as of January 1, 2017, is repealed.*

17 SEC. 6. Section 22973 is added to the Business and Professions
18 Code, to read:

19 22973. (a) An application for a license shall be filed on or
20 before April 15, 2004, on a form prescribed by the board and shall
21 include the following:

22 (1) The name, address, and telephone number of the applicant.

23 (2) The business name, address, and telephone number of each
24 retail location. For applicants who control more than one retail
25 location, an address for receipt of correspondence or notices from
26 the board, such as a headquarters or corporate office of the retailer,
27 shall also be included on the application and listed on the license.
28 Citations issued to licensees shall be forwarded to all addressees
29 on the license.

30 (3) A statement by the applicant affirming that the applicant
31 has not been convicted of a felony and has not violated and will
32 not violate or cause or permit to be violated any of the provisions
33 of this division or any rule of the board applicable to the applicant
34 or pertaining to the manufacture, sale, or distribution of cigarettes
35 or tobacco products. If the applicant is unable to affirm this
36 statement, the application shall contain a statement by the applicant
37 of the nature of any violation or the reasons that will prevent the
38 applicant from complying with the requirements with respect to
39 the statement.

1 (4) If any other licenses or permits have been issued by the
2 board or the Department of Alcoholic Beverage Control to the
3 applicant, the license or permit number of those licenses or permits
4 then in effect.

5 (5) A statement by the applicant that the contents of the
6 application are complete, true, and correct. Any person who signs
7 a statement pursuant to this subdivision that asserts the truth of
8 any material matter that he or she knows to be false is guilty of a
9 misdemeanor punishable by imprisonment of up to one year in the
10 county jail, or a fine of not more than one thousand dollars
11 (\$1,000), or both the imprisonment and the fine.

12 (6) The signature of the applicant.

13 (7) Any other information the board may require.

14 (b) The board may investigate to determine the truthfulness and
15 completeness of the information provided in the application. The
16 board may issue a license without further investigation to an
17 applicant for a retail location if the applicant holds a valid license
18 from the Department of Alcoholic Beverage Control for that same
19 location.

20 (c) The board shall provide electronic means for applicants to
21 download and submit applications.

22 (d) (1) A one-time license fee of one hundred dollars (\$100)
23 shall be submitted with each application to obtain a license to
24 engage in the sale of a cigarette or a tobacco product, as defined
25 in Sections 30121 and 30131.1 of the Revenue and Taxation Code.
26 An applicant that owns or controls more than one retail location
27 shall obtain a separate license for each retail location, but may
28 submit a single application for those licenses with a one-time
29 license fee of one hundred dollars (\$100) per location.

30 (2) A one-time license fee in an amount determined by the State
31 Board of Equalization shall be submitted with each application to
32 obtain a license to engage in the sale of a tobacco product, as
33 defined in subdivision (d) of Section 22950.5, that is not subject
34 to a tax imposed by the Cigarette and Tobacco Products Tax Law
35 pursuant to Part 13 (commencing with Section 30001) of Division
36 2 of the Revenue and Taxation Code. The fee collected pursuant
37 to this paragraph shall not exceed the total cost associated with
38 the administration and enforcement of the license.

39 (3) The one-time fee required by paragraph (1) of this
40 subdivision does not apply to an application for renewal of a license

1 for a retail location for which the one-time license fee has already
2 been paid. If a license is reinstated after its expiration, the retailer,
3 as a condition precedent to its reinstatement, shall pay a
4 reinstatement fee of one hundred dollars (\$100).

5 (e) This section shall be operative on October 1, 2016.

6 SEC. 7. Section 22980.2 of the Business and Professions Code
7 is amended to read:

8 22980.2. (a) A person or entity that engages in the business
9 of selling cigarettes or tobacco products in this state either without
10 a valid license or after a license has been suspended or revoked,
11 and each officer of any corporation that so engages in this business,
12 is guilty of a misdemeanor punishable as provided in Section
13 22981.

14 (b) Each day after notification by the board or by a law
15 enforcement agency that a manufacturer, wholesaler, distributor,
16 importer, retailer, or any other person required to be licensed under
17 this division offers cigarette and tobacco products for sale or
18 exchange without a valid license for the location from which they
19 are offered for sale shall constitute a separate violation.

20 (c) Continued sales or gifting of cigarettes and tobacco products
21 either without a valid license or after a notification of suspension
22 or revocation shall constitute a violation punishable as provided
23 in Section 22981, and shall result in the seizure of all cigarettes
24 and tobacco products in the possession of the person by the board
25 or a law enforcement agency. Any cigarettes and tobacco products
26 seized by the board or by a law enforcement agency shall be
27 deemed forfeited.

28 (d) *This section shall become inoperative on October 1, 2016,*
29 *and, as of January 1, 2017, is repealed.*

30 SEC. 8. Section 22980.2 is added to the Business and
31 Professions Code, to read:

32 22980.2. (a) A person or entity that engages in the business
33 of selling cigarettes or tobacco products in this state either without
34 a valid license or after a license has been suspended or revoked,
35 and each officer of any corporation that so engages in this business,
36 is guilty of a misdemeanor punishable as provided in Section
37 22981.

38 (b) Each day after notification by the board or by a law
39 enforcement agency that a manufacturer, wholesaler, distributor,
40 importer, retailer, or any other person required to be licensed under

1 this division offers cigarette and tobacco products for sale or
2 exchange without a valid license for the location from which they
3 are offered for sale shall constitute a separate violation.

4 (c) Continued sales or gifting of cigarettes and tobacco products
5 either without a valid license or after a notification of suspension
6 or revocation shall constitute a violation punishable as provided
7 in Section 22981, and shall result in the seizure of all cigarettes
8 and tobacco products in the possession of the person by the board
9 or a law enforcement agency. Any cigarettes and tobacco products
10 seized by the board or by a law enforcement agency shall be
11 deemed forfeited.

12 (d) For the purposes of this section, notwithstanding subdivision
13 (s) of Section 22971, “tobacco products” includes a product or
14 device as defined in subdivision (d) of Section 22950.5.

15 (e) This section shall be operative on October 1, 2016.

16 SEC. 9. Section 1947.5 of the Civil Code is amended to read:

17 1947.5. (a) A landlord of a residential dwelling unit, as defined
18 in Section 1940, or his or her agent, may prohibit the smoking of
19 a cigarette, as defined in Section 104556 of the Health and Safety
20 Code, or other tobacco product on the property or in any building
21 or portion of the building, including any dwelling unit, other
22 interior or exterior area, or the premises on which it is located, in
23 accordance with this article.

24 (b) (1) Every lease or rental agreement entered into on or after
25 January 1, 2012, for a residential dwelling unit on property on any
26 portion of which the landlord has prohibited the smoking of
27 cigarettes or other tobacco products pursuant to this article shall
28 include a provision that specifies the areas on the property where
29 smoking is prohibited, if the lessee has not previously occupied
30 the dwelling unit.

31 (2) For a lease or rental agreement entered into before January
32 1, 2012, a prohibition against the smoking of cigarettes or other
33 tobacco products in any portion of the property in which smoking
34 was previously permitted shall constitute a change of the terms of
35 tenancy, requiring adequate notice in writing, to be provided in
36 the manner prescribed in Section 827.

37 (c) A landlord who exercises the authority provided in
38 subdivision (a) to prohibit smoking shall be subject to federal,
39 state, and local requirements governing changes to the terms of a
40 lease or rental agreement for tenants with leases or rental

1 agreements that are in existence at the time that the policy limiting
2 or prohibiting smoking is adopted.

3 (d) This section shall not be construed to preempt any local
4 ordinance in effect on or before January 1, 2012, or any provision
5 of a local ordinance in effect on or after January 1, 2012, that
6 restricts the smoking of cigarettes or other tobacco products.

7 (e) A limitation or prohibition of the use of any tobacco product
8 shall not affect any other term or condition of the tenancy, nor
9 shall this section be construed to require statutory authority to
10 establish or enforce any other lawful term or condition of the
11 tenancy.

12 (f) *For purposes of this section, “smoking” has the meaning of*
13 *the definition in subdivision (c) of Section 22950.5 of the Business*
14 *and Professions Code.*

15 (g) *For purposes of this section, “tobacco product” means a*
16 *product or device as defined in subdivision (d) of Section 22950.5*
17 *of the Business and Professions Code.*

18 SEC. 10. Section 48901 of the Education Code is amended to
19 read:

20 48901. (a) No school shall permit the smoking or use of
21 ~~tobacco, or any product containing a tobacco or nicotine products,~~
22 *product* by pupils of the school while the pupils are on campus,
23 or while attending school-sponsored activities or while under the
24 supervision and control of school district employees.

25 (b) The governing board of any school district maintaining a
26 high school shall take all steps it deems practical to discourage
27 high school students from smoking.

28 (c) *For purposes of this section, “smoking” has the meaning of*
29 *the definition in subdivision (c) of Section 22950.5 of the Business*
30 *and Professions Code.*

31 (d) *For purposes of this section, “tobacco product” means a*
32 *product or device as defined in subdivision (d) of Section 22950.5*
33 *of the Business and Professions Code.*

34 SEC. 11. Section 7597 of the Government Code is amended
35 to read:

36 7597. (a) No public employee or member of the public shall
37 smoke ~~any~~ a tobacco product inside a public building, or in an
38 outdoor area within 20 feet of a main exit, entrance, or operable
39 window of a public building, or in a passenger vehicle, as defined
40 by Section 465 of the Vehicle Code, owned by the state.

1 (b) This section shall not preempt the authority of any county,
2 city, city and county, California Community College campus,
3 campus of the California State University, or campus of the
4 University of California to adopt and enforce additional smoking
5 and tobacco control ordinances, regulations, or policies that are
6 more restrictive than the applicable standards required by this
7 chapter.

8 (c) *For purposes of this section, “smoke” and “smoking” have*
9 *the meaning of the definition in subdivision (c) of Section 22950.5*
10 *of the Business and Professions Code.*

11 (d) *For purposes of this section, “tobacco product” means a*
12 *product or device as defined in subdivision (d) of Section 22950.5*
13 *of the Business and Professions Code.*

14 SEC. 12. Section 1234 of the Health and Safety Code is
15 amended to read:

16 1234. (a) Smoking *a tobacco product* shall not be permitted
17 in patient areas of a clinic except those rooms designated for
18 occupancy exclusively by smokers.

19 (b) Clearly legible signs shall either:

20 (1) State that smoking is unlawful and be conspicuously posted
21 by, or on behalf of, the owner or manager of such clinic, in all
22 areas of a clinic where smoking is unlawful.

23 (2) Identify “smoking permitted” areas, and be posted by, or
24 on behalf of, the owner or manager of such clinic, only in areas of
25 a clinic where smoking is lawfully permitted.

26 If “smoking permitted” signs are posted, there shall also be
27 conspicuously posted, near all major entrances, clearly legible
28 signs stating that smoking is unlawful except in areas designated
29 “smoking permitted.”

30 (c) This section shall not apply to skilled nursing facilities,
31 intermediate care facilities, and intermediate care facilities for the
32 developmentally disabled.

33 (d) *For purposes of this section, “smoking” has the meaning*
34 *of the definition in subdivision (c) of Section 22950.5 of the*
35 *Business and Professions Code.*

36 (e) *For purposes of this section, “tobacco product” means a*
37 *product or device as defined in subdivision (d) of Section 22950.5*
38 *of the Business and Professions Code.*

39 SEC. 13. Section 1286 of the Health and Safety Code is
40 amended to read:

1 1286. (a) Smoking *a tobacco product* shall be prohibited in
2 patient care areas, waiting rooms, and visiting rooms of a health
3 facility, except those areas specifically designated as smoking
4 areas, and in patient rooms as specified in subdivision (b).

5 (b) Smoking *a tobacco product* shall not be permitted in a
6 patient room unless all persons assigned to ~~such~~ *the* room have
7 requested a room where smoking is permitted. In the event that
8 the health facility occupancy has reached capacity, the health
9 facility shall have reasonable time to reassign patients to
10 appropriate rooms.

11 (c) Clearly legible signs shall either:

12 (1) State that smoking is unlawful and be conspicuously posted
13 by, or on behalf of, the owner or manager of ~~such~~ *the* health
14 facility, in all areas of a health facility where smoking is unlawful,
15 or

16 (2) Identify “smoking permitted” areas, and be posted by, or
17 on behalf of, the owner or manager of ~~such~~ *the* health facility, only
18 in areas of the health facility where smoking is lawfully permitted.

19 If “smoking permitted” signs are posted, there shall also be
20 conspicuously posted, near all major entrances, clearly legible
21 signs stating that smoking is unlawful except in areas designated
22 “smoking permitted.”

23 (d) No signs pertaining to smoking are required to be posted
24 in patient rooms.

25 (e) This section shall not apply to skilled nursing facilities,
26 intermediate care facilities, and intermediate care facilities for the
27 developmentally disabled.

28 (f) *For purposes of this section, “smoking” has the meaning of*
29 *the definition in subdivision (c) of Section 22950.5 of the Business*
30 *and Professions Code.*

31 (g) *For purposes of this section, “tobacco product” means a*
32 *product or device as defined in subdivision (d) of Section 22950.5*
33 *of the Business and Professions Code.*

34 SEC. 14. Section 1530.7 of the Health and Safety Code is
35 amended to read:

36 1530.7. (a) Group homes, foster family agencies, small family
37 homes, transitional housing placement providers, and crisis
38 nurseries licensed pursuant to this chapter shall maintain a
39 smoke-free environment in the facility.

1 (b) A person who is licensed or certified pursuant to this chapter
 2 to provide residential care in a foster family home or certified
 3 family home shall not smoke *a tobacco product* or permit any
 4 other person to smoke *a tobacco product* inside the facility, and,
 5 when the child is present, on the outdoor grounds of the facility.

6 (c) A person who is licensed or certified pursuant to this chapter
 7 to provide residential foster care shall not smoke *a tobacco product*
 8 in any motor vehicle that is regularly used to transport the child.

9 (d) *For purposes of this section, “smoke” has the meaning of*
 10 *the definition in subdivision (c) of Section 22950.5 of the Business*
 11 *and Professions Code.*

12 (e) *For purposes of this section, “tobacco product” means a*
 13 *product or device as defined in subdivision (d) of Section 22950.5*
 14 *of the Business and Professions Code.*

15 SEC. 15. Section 1596.795 of the Health and Safety Code is
 16 amended to read:

17 1596.795. (a) The smoking of *a tobacco product* in a private
 18 residence that is licensed as a family day care home shall be
 19 prohibited in the home and in those areas of the family day care
 20 home where children are present. Nothing in this section shall
 21 prohibit a city or county from enacting or enforcing an ordinance
 22 relating to smoking in a family day care home if the ordinance is
 23 more stringent than this section.

24 (b) The smoking of *a tobacco product* on the premises of a
 25 licensed day care center shall be prohibited.

26 (c) *For purposes of this section, “smoking” has the meaning of*
 27 *the definition in subdivision (c) of Section 22950.5 of the Business*
 28 *and Professions Code.*

29 (d) *For purposes of this section, “tobacco product” means a*
 30 *product or device as defined in subdivision (d) of Section 22950.5*
 31 *of the Business and Professions Code.*

32 SEC. 16. Section 104495 of the Health and Safety Code is
 33 amended to read:

34 104495. (a) For the purposes of this section, the following
 35 definitions shall govern:

36 (1) “Playground” means any park or recreational area
 37 specifically designed to be used by children that has play equipment
 38 installed, or any similar facility located on public or private school
 39 grounds, or on city, county, or state park grounds.

1 (2) “Tot lot sandbox area” means a designated play area within
 2 a public park for the use by children under five years of age. Where
 3 the area is not contained by a fence, the boundary of a tot lot
 4 sandbox area shall be defined by the edge of the resilient surface
 5 of safety material, such as concrete or wood, or any other material
 6 surrounding the tot lot sandbox area.

7 (3) “Public park” includes a park operated by a public agency.

8 (4) ~~“Smoke or smoking” means “Smoke” and “smoking” have~~
 9 ~~the carrying meaning of a lighted pipe, lighted cigar, or lighted~~
 10 ~~cigarette of any kind, or the lighting definition in subdivision (c)~~
 11 ~~of a pipe, cigar, or cigarette Section 22950.5 of any kind, including,~~
 12 ~~but not limited to, tobacco, or any other weed or plant. the Business~~
 13 ~~and Professions Code.~~

14 (5) “Cigarette” means the same as defined in Section 104556.

15 (6) “Cigar” means the same as defined in Section 104550.

16 (7) *“Tobacco product” means a product or device as defined*
 17 *in subdivision (d) of Section 22950.5 of the Business and*
 18 *Professions Code.*

19 (b) No person shall smoke a cigarette, cigar, or other
 20 ~~tobacco-related~~ tobacco product within 25 feet of any playground
 21 or tot lot sandbox area.

22 (c) No person shall dispose of cigarette butts, cigar butts, or
 23 any other tobacco-related waste within 25 feet of a playground or
 24 a tot lot sandbox area.

25 (d) No person shall intimidate, threaten any reprisal, or effect
 26 any reprisal, for the purpose of retaliating against another person
 27 who seeks to attain compliance with this section.

28 (e) Any person who violates this section is guilty of an
 29 infraction and shall be punished by a fine of two hundred fifty
 30 dollars (\$250) for each violation of this section. Punishment under
 31 this section shall not preclude punishment pursuant to Section
 32 13002, Section 374.4 of the Penal Code, or any other provision of
 33 law proscribing the act of littering.

34 (f) The prohibitions contained in subdivisions (b), (c), and (d)
 35 shall not apply to private property.

36 (g) The prohibitions contained in subdivisions (b) and (c) shall
 37 not apply to a public sidewalk located within 25 feet of a
 38 playground or a tot lot sandbox area.

39 (h) This section shall not preempt the authority of any county,
 40 city, or city and county to regulate smoking around playgrounds

1 or tot lot sandbox areas. Any county, city, or city and county may
2 enforce any ordinance adopted prior to January 1, 2002, or may
3 adopt and enforce new regulations that are more restrictive than
4 this section, on and after January 1, 2002.

5 SEC. 17. Section 114332.3 of the Health and Safety Code is
6 amended to read:

7 114332.3. (a) No potentially hazardous food or beverage stored
8 or prepared in a private home may be offered for sale, sold, or
9 given away from a nonprofit charitable temporary food facility.
10 Potentially hazardous food shall be prepared in a food
11 establishment or on the premises of a nonprofit charitable
12 temporary food facility.

13 (b) All food and ~~beverage~~ *beverages* shall be protected at all
14 times from unnecessary handling and shall be stored, displayed,
15 and served so as to be protected from contamination.

16 (c) Potentially hazardous food and ~~beverage~~ *beverages* shall be
17 maintained at or below 7 degrees Celsius (45 degrees Fahrenheit)
18 or at or above 57.2 degrees Celsius (135 degrees Fahrenheit) at all
19 times.

20 (d) Ice used in beverages shall be protected from contamination
21 and shall be maintained separate from ice used for refrigeration
22 purposes.

23 (e) All food and food containers shall be stored off the floor on
24 shelving or pallets located within the facility.

25 (f) Smoking *a tobacco product* is prohibited in nonprofit
26 charitable temporary food facilities.

27 (g) (1) Except as provided in paragraph (2), live animals, birds,
28 or fowl shall not be kept or allowed in nonprofit charitable
29 temporary food facilities.

30 (2) Paragraph (1) does not prohibit the presence, in any room
31 where food is served to the public, guests, or patrons, of a guide
32 dog, signal dog, or service dog, as defined by Section 54.1 of the
33 Civil Code, accompanied by a totally or partially blind person,
34 deaf person, person whose hearing is impaired, or handicapped
35 person, or dogs accompanied by persons licensed to train guide
36 dogs for the blind pursuant to Chapter 9.5 (commencing with
37 Section 7200) of Division 3 of the Business and Professions Code.

38 (3) Paragraph (1) does not apply to dogs under the control of
39 uniformed law enforcement officers or of uniformed employees
40 of private patrol operators and operators of a private patrol service

1 who are licensed pursuant to Chapter 11.5 (commencing with
2 Section 7580) of Division 3 of the Business and Professions Code,
3 while these employees are acting within the course and scope of
4 their employment as private patrol persons.

5 (4) The persons and operators described in paragraphs (2) and
6 (3) are liable for any damage done to the premises or facilities by
7 the dog.

8 (5) The dogs described in paragraphs (2) and (3) shall be
9 excluded from food preparation and utensil wash areas. Aquariums
10 and aviaries shall be allowed if enclosed so as not to create a public
11 health problem.

12 (h) All garbage shall be disposed of in a sanitary manner.

13 (i) Employees preparing or handling food shall wear clean
14 clothing and shall keep their hands clean at all times.

15 (j) *For purposes of this section, “smoking” has the meaning of*
16 *the definition in subdivision (c) of Section 22950.5 of the Business*
17 *and Professions Code.*

18 (k) *For purposes of this section, “tobacco product” means a*
19 *product or device as defined in subdivision (d) of Section 22950.5*
20 *of the Business and Professions Code.*

21 SEC. 18. Section 114371 of the Health and Safety Code is
22 amended to read:

23 114371. Certified farmers’ markets shall meet all of the
24 following requirements:

25 (a) All food shall be stored at least six inches off the floor or
26 ground or under any other conditions that are approved. Tents,
27 canopies, or other overhead coverings are not required for fresh
28 whole produce sales displays or storage, except when specifically
29 required pursuant to this chapter. Flavored nuts and dried fruits
30 that are being sold on a bulk or nonprepackaged basis shall be
31 displayed and dispensed by the producer from covered containers.
32 All processed food products being sold shall be in compliance with
33 Section 113735 and the applicable provisions of Section 110460,
34 114365, or 114365.2.

35 (b) Food preparation is prohibited at certified farmers’ markets
36 with the exception of food samples. Trimming whole produce for
37 sale shall not be considered food preparation. Distribution of food
38 samples may occur provided that the following sanitary conditions
39 exist:

1 (1) Samples shall be kept in clean, nonabsorbent, and covered
2 containers intended by the manufacturer for use with foods. Any
3 cutting or distribution of samples shall only occur under a tent,
4 canopy, or other overhead covering.

5 (2) All food samples shall be distributed by the producer in a
6 manner that is sanitary and in which each sample is distributed
7 without the possibility of a consumer touching the remaining
8 samples.

9 (3) Clean, disposable plastic gloves shall be used when cutting
10 food samples.

11 (4) Fresh, whole produce intended for sampling shall be washed
12 or cleaned in another manner of any soil or other material by
13 potable water in order that it is wholesome and safe for
14 consumption.

15 (5) Notwithstanding Section 114205, available potable water
16 may be required for handwashing and sanitizing; the need
17 determined and manner approved by the enforcement agency.

18 (6) Potentially hazardous food samples shall be maintained at
19 or below ~~45°F~~ *45 degrees Fahrenheit* and shall be disposed of
20 within two hours after cutting. A certified farmers' market or an
21 enforcement officer may cause immediate removal and disposal,
22 or confiscate and destroy, any potentially hazardous food samples
23 found not in compliance with this paragraph.

24 (7) Wastewater shall be disposed of in a facility connected to
25 the public sewer system or in a manner approved by the
26 enforcement agency.

27 (8) Utensils and cutting surfaces shall be smooth, nonabsorbent,
28 and easily cleanable, or single-use articles shall be utilized. If the
29 producer uses only single-use articles or maintains an adequate
30 supply of clean replacement articles readily available at the site at
31 the time of use, warewashing facilities shall not be required.

32 (c) Approved toilet and handwashing facilities shall be available
33 within 200 feet travel distance of the premises of the certified
34 farmers' market or as approved by the enforcement officer.

35 (d) No live animals, birds, or fowl shall be kept or allowed, and
36 no individual shall bring a live animal, bird, or fowl, within 20
37 feet of any area where food is stored or held for sale within a
38 certified farmers' market. This subdivision does not apply to guide
39 dogs, signal dogs, or service dogs when used in accordance with
40 the federal Americans with Disabilities Act of 1990 (42 U.S.C.

1 Sec. 12101 et seq.), and as provided in Section 36.104 of Title 28
2 of the Code of Federal Regulations. All guide dogs, signal dogs,
3 and service dogs shall be used and properly identified in accordance
4 with Section 54.1 and subdivision (b) of Section 54.2 of the Civil
5 Code, and Sections 30850, 30851, and 30852 of the Food and
6 Agricultural Code.

7 (e) All garbage and refuse shall be stored and disposed of in a
8 manner approved by the enforcement officer.

9 (f) Smoking of cigarettes, cigars, pipe tobacco, and other
10 ~~nicotine~~ tobacco products shall not be permitted within 25 feet of
11 the common commerce area comprised of sales personnel and
12 shopping customers of the certified farmers’ market.

13 (g) Notwithstanding Chapter 10 (commencing with Section
14 114294) vendors selling food adjacent to, and under the jurisdiction
15 and management of, a certified farmers’ market may store, display,
16 and sell from a table or display fixture apart from the mobile
17 facility in a manner approved by the enforcement agency.

18 (h) Temporary food facilities may be operated at a separate
19 community event adjacent to, and in conjunction with, certified
20 farmers’ markets. The organization in control of the community
21 event at which these temporary food facilities operate shall comply
22 with Section 114381.1.

23 (i) All harvested, cut, wrapped, or otherwise processed meat,
24 poultry, and fish products shall be from approved sources as set
25 forth in Section 113735, and shall be properly labeled or have
26 documentation present at the point of sale that demonstrates
27 compliance with this requirement. All harvested, cut, wrapped, or
28 otherwise processed meat, poultry, and fish products offered for
29 sale shall be transported, stored, displayed, and maintained at a
30 temperature of ~~41° F~~ 41 degrees Fahrenheit or colder. The
31 temperature holding capabilities of the storage containers used
32 shall be sufficient to maintain safe product temperatures. Storage
33 containers for meat, poultry, and fish products shall be insulated
34 and have interior surfaces that are smooth, nonabsorbent, and easily
35 cleanable. All meat, poultry, and fish products shall be stored in
36 a manner that reduces the risk of cross-contamination.

37 (j) For purposes of this section, “smoking” has the meaning of
38 the definition in subdivision (c) of Section 22950.5 of the Business
39 and Professions Code.

1 (k) For purposes of this section, “tobacco product” means a
2 product or device as defined in subdivision (d) of Section 22950.5
3 of the Business and Professions Code.

4 SEC. 19. Section 118910 of the Health and Safety Code is
5 amended to read:

6 118910. (a) The Legislature declares its intent not to preempt
7 the field of regulation of the smoking of ~~tobacco~~ tobacco products.
8 A local governing body may ban completely the smoking of
9 ~~tobacco~~ tobacco products, or may regulate smoking of tobacco
10 products in any manner not inconsistent with this article and Article
11 3 (commencing with Section 118920) or any other provision of
12 state law.

13 (b) For purposes of this section, “smoking” has the meaning
14 of the definition in subdivision (c) of Section 22950.5 of the
15 Business and Professions Code.

16 (c) For purposes of this section, “tobacco product” means a
17 product or device as defined in subdivision (d) of Section 22950.5
18 of the Business and Professions Code.

19 SEC. 20. Section 118925 of the Health and Safety Code is
20 amended to read:

21 118925. (a) (1) It is unlawful for any person to smoke a
22 tobacco product in any vehicle of a passenger stage corporation,
23 the National Railroad Passenger Corporation (Amtrak) except to
24 the extent permitted by federal law, in any aircraft except to the
25 extent permitted by federal law, on a public transportation system,
26 as defined by Section 99211 of the Public Utilities Code, or in any
27 vehicle of an entity receiving any transit assistance from the state.

28 (2) (A) For purposes of this subdivision, “smoke” has the
29 meaning of the definition in subdivision (c) of Section 22950.5 of
30 the Business and Professions Code.

31 (B) For purposes of this subdivision, “tobacco product” means
32 a product or device as defined in subdivision (d) of Section 22950.5
33 of the Business and Professions Code.

34 (b) It is unlawful for any person to smoke ~~tobacco~~ or any other
35 plant product other than a tobacco product in any vehicle of a
36 passenger stage corporation, the National Railroad Passenger
37 Corporation (Amtrak) except to the extent permitted by federal
38 law, in any aircraft except to the extent permitted by federal law,
39 on a public transportation system, as defined by Section 99211 of

1 the Public Utilities Code, or in any vehicle of an entity receiving
2 any transit assistance from the state.

3 SEC. 21. Section 118948 of the Health and Safety Code is
4 amended to read:

5 118948. (a) It is unlawful for a person to smoke a pipe, cigar,
6 or cigarette tobacco product in a motor vehicle, whether in motion
7 or at rest, in which there is a minor.

8 (b) For purposes of this section, “smoke” has the meaning of
9 the definition in subdivision (c) of Section 22950.5 of the Business
10 and Professions Code.

11 (b)
12 (c) For the purposes of this section, “to smoke” “tobacco
13 product” means to have in one’s immediate possession a lighted
14 pipe, cigar, product or cigarette containing tobacco or any other
15 plant device as defined in subdivision (d) of Section 22950.5 of
16 the Business and Professions Code.

17 (e)
18 (d) A violation of this section is an infraction punishable by a
19 fine not exceeding one hundred dollars (\$100) for each violation.

20 SEC. 22. Section 119405 of the Health and Safety Code is
21 repealed.

22 119405. (a) To the extent not preempted by federal law,
23 including, but not limited to, the regulation of electronic cigarettes
24 by the United States Food and Drug Administration, it shall be
25 unlawful for a person to sell or otherwise furnish an electronic
26 cigarette, as defined in subdivision (b), to a person under 18 years
27 of age.

28 (b) “Electronic cigarette” means a device that can provide an
29 inhalable dose of nicotine by delivering a vaporized solution.

30 (c) A violation of this section shall be an infraction punishable
31 by a fine not exceeding two hundred dollars (\$200) for the first
32 violation, by a fine not exceeding five hundred dollars (\$500) for
33 the second violation, or by a fine not exceeding one thousand
34 dollars (\$1,000) for a third or subsequent violation.

35 (d) Nothing in this section nor any other law shall be construed
36 to invalidate an existing ordinance of, or prohibit the adoption of
37 an ordinance by, a city or county that regulates the distribution of
38 electronic cigarettes in a manner that is more restrictive than this
39 section, to the extent that the ordinance is not otherwise prohibited
40 by federal law.

1 SEC. 23. Section 119406 is added to the Health and Safety
2 Code, to read:

3 119406. (a) Commencing October 1, 2016, all cartridges for
4 electronic cigarettes and solutions for filling or refilling an
5 electronic cigarette shall be in childproof packaging.

6 (b) “Child-resistant packaging” means packaging that meets
7 the specifications in Section 1700.15 (b) of, and is tested by the
8 method described in Section 1700.20 of, Title 16 of the Code of
9 Federal Regulations.

10 SEC. 24. Section 6404.5 of the Labor Code is amended to read:

11 6404.5. (a) The Legislature finds and declares that regulation
12 of smoking in the workplace is a matter of statewide interest and
13 concern. It is the intent of the Legislature in enacting this section
14 to prohibit the smoking of tobacco products in all (100 percent of)
15 enclosed places of employment in this state, as covered by this
16 section, thereby eliminating the need of local governments to enact
17 workplace smoking restrictions within their respective jurisdictions.
18 It is further the intent of the Legislature to create a uniform
19 statewide standard to restrict and prohibit the smoking of tobacco
20 products in enclosed places of employment, as specified in this
21 section, in order to reduce employee exposure to environmental
22 tobacco smoke to a level that will prevent anything other than
23 insignificantly harmful effects to exposed employees, and also to
24 eliminate the confusion and hardship that can result from enactment
25 or enforcement of disparate local workplace smoking restrictions.
26 Notwithstanding any other provision of this section, it is the intent
27 of the Legislature that any area not defined as a “place of
28 employment” pursuant to subdivision (d) or in which the smoking
29 of tobacco products is not regulated pursuant to subdivision (e)
30 shall be subject to local regulation of smoking of tobacco products.

31 (b) No employer shall knowingly or intentionally permit, and
32 no person shall engage in, the smoking of tobacco products in an
33 enclosed space at a place of employment. “Enclosed space”
34 includes lobbies, lounges, waiting areas, elevators, stairwells, and
35 restrooms that are a structural part of the building and not
36 specifically defined in subdivision (d).

37 (c) For purposes of this section, an employer who permits any
38 nonemployee access to his or her place of employment on a regular
39 basis has not acted knowingly or intentionally in violation of this

1 section if he or she has taken the following reasonable steps to
2 prevent smoking by a nonemployee:

3 (1) Posted clear and prominent signs, as follows:

4 (A) Where smoking is prohibited throughout the building or
5 structure, a sign stating “No smoking” shall be posted at each
6 entrance to the building or structure.

7 (B) Where smoking is permitted in designated areas of the
8 building or structure, a sign stating “Smoking is prohibited except
9 in designated areas” shall be posted at each entrance to the building
10 or structure.

11 (2) Has requested, when appropriate, that a nonemployee who
12 is smoking refrain from smoking in the enclosed workplace.

13 For purposes of this subdivision, “reasonable steps” does not
14 include (A) the physical ejection of a nonemployee from the place
15 of employment or (B) any requirement for making a request to a
16 nonemployee to refrain from smoking, under circumstances
17 involving a risk of physical harm to the employer or any employee.

18 (d) For purposes of this section, “place of employment” does
19 not include any of the following:

20 (1) Sixty-five percent of the guestroom accommodations in a
21 hotel, motel, or similar transient lodging establishment.

22 (2) Areas of the lobby in a hotel, motel, or other similar transient
23 lodging establishment designated for smoking by the establishment.
24 An establishment may permit smoking in a designated lobby area
25 that does not exceed 25 percent of the total floor area of the lobby
26 or, if the total area of the lobby is 2,000 square feet or less, that
27 does not exceed 50 percent of the total floor area of the lobby. For
28 purposes of this paragraph, “lobby” means the common public
29 area of an establishment in which registration and other similar or
30 related transactions, or both, are conducted and in which the
31 establishment’s guests and members of the public typically
32 congregate.

33 (3) Meeting and banquet rooms in a hotel, motel, other transient
34 lodging establishment similar to a hotel or motel, restaurant, or
35 public convention center, except while food or beverage functions
36 are taking place, including setup, service, and cleanup activities,
37 or when the room is being used for exhibit purposes. At times
38 when smoking is not permitted in a meeting or banquet room
39 pursuant to this paragraph, the establishment may permit smoking
40 in corridors and prefunction areas adjacent to and serving the

1 meeting or banquet room if no employee is stationed in that
2 corridor or area on other than a passing basis.

3 (4) Retail or wholesale tobacco shops and private smokers'
4 lounges. For purposes of this paragraph:

5 (A) "Private smokers' lounge" means any enclosed area in or
6 attached to a retail or wholesale tobacco shop that is dedicated to
7 the use of tobacco products, including, but not limited to, cigars
8 and pipes.

9 (B) "Retail or wholesale tobacco shop" means any business
10 establishment the main purpose of which is the sale of tobacco
11 products, including, but not limited to, cigars, pipe tobacco, and
12 smoking accessories.

13 (5) Cabs of motortrucks, as defined in Section 410 of the Vehicle
14 Code, or truck tractors, as defined in Section 655 of the Vehicle
15 Code, if no nonsmoking employees are present.

16 (6) Warehouse facilities. For purposes of this paragraph,
17 "warehouse facility" means a warehouse facility with more than
18 100,000 square feet of total floorspace, and 20 or fewer full-time
19 employees working at the facility, but does not include any area
20 within a facility that is utilized as office space.

21 (7) Gaming clubs, in which smoking is permitted by subdivision
22 (f). For purposes of this paragraph, "gaming club" means any
23 gaming club, as defined in Section 19802 of the Business and
24 Professions Code, or bingo facility, as defined in Section 326.5 of
25 the Penal Code, that restricts access to minors under 18 years of
26 age.

27 (8) Bars and taverns, in which smoking is permitted by
28 subdivision (f). For purposes of this paragraph, "bar" or "tavern"
29 means a facility primarily devoted to the serving of alcoholic
30 beverages for consumption by guests on the premises, in which
31 the serving of food is incidental. "Bar or tavern" includes those
32 facilities located within a hotel, motel, or other similar transient
33 occupancy establishment. However, when located within a building
34 in conjunction with another use, including a restaurant, "bar" or
35 "tavern" includes only those areas used primarily for the sale and
36 service of alcoholic beverages. "Bar" or "tavern" does not include
37 the dining areas of a restaurant, regardless of whether alcoholic
38 beverages are served therein.

39 (9) Theatrical production sites, if smoking is an integral part of
40 the story in the theatrical production.

- 1 (10) Medical research or treatment sites, if smoking is integral
- 2 to the research and treatment being conducted.
- 3 (11) Private residences, except for private residences licensed
- 4 as family day care homes, where smoking is prohibited pursuant
- 5 to Section 1596.795 of the Health and Safety Code.
- 6 (12) Patient smoking areas in long-term health care facilities,
- 7 as defined in Section 1418 of the Health and Safety Code.
- 8 (13) Breakrooms designated by employers for smoking, provided
- 9 that all of the following conditions are met:
- 10 (A) Air from the smoking room shall be exhausted directly to
- 11 the outside by an exhaust fan. Air from the smoking room shall
- 12 not be recirculated to other parts of the building.
- 13 (B) The employer shall comply with any ventilation standard
- 14 or other standard utilizing appropriate technology, including, but
- 15 not limited to, mechanical, electronic, and biotechnical systems,
- 16 adopted by the Occupational Safety and Health Standards Board
- 17 or the federal Environmental Protection Agency. If both adopt
- 18 inconsistent standards, the ventilation standards of the Occupational
- 19 Safety and Health Standards Board shall be no less stringent than
- 20 the standards adopted by the federal Environmental Protection
- 21 Agency.
- 22 (C) The smoking room shall be located in a nonwork area where
- 23 no one, as part of his or her work responsibilities, is required to
- 24 enter. For purposes of this subparagraph, “work responsibilities”
- 25 does not include any custodial or maintenance work carried out in
- 26 the breakroom when it is unoccupied.
- 27 (D) There are sufficient nonsmoking breakrooms to
- 28 accommodate nonsmokers.
- 29 (14) Employers with a total of five or fewer employees, either
- 30 full time or part time, may permit smoking where all of the
- 31 following conditions are met:
- 32 (A) The smoking area is not accessible to minors.
- 33 (B) All employees who enter the smoking area consent to permit
- 34 smoking. No one, as part of his or her work responsibilities, shall
- 35 be required to work in an area where smoking is permitted. An
- 36 employer who is determined by the division to have used coercion
- 37 to obtain consent or who has required an employee to work in the
- 38 smoking area shall be subject to the penalty provisions of Section
- 39 6427.

1 (C) Air from the smoking area shall be exhausted directly to
2 the outside by an exhaust fan. Air from the smoking area shall not
3 be recirculated to other parts of the building.

4 (D) The employer shall comply with any ventilation standard
5 or other standard utilizing appropriate technology, including, but
6 not limited to, mechanical, electronic, and biotechnical systems,
7 adopted by the Occupational Safety and Health Standards Board
8 or the federal Environmental Protection Agency. If both adopt
9 inconsistent standards, the ventilation standards of the Occupational
10 Safety and Health Standards Board shall be no less stringent than
11 the standards adopted by the federal Environmental Protection
12 Agency.

13 This paragraph shall not be construed to (i) supersede or render
14 inapplicable any condition or limitation on smoking areas made
15 applicable to specific types of business establishments by any other
16 paragraph of this subdivision or (ii) apply in lieu of any otherwise
17 applicable paragraph of this subdivision that has become
18 inoperative.

19 (e) Paragraphs (13) and (14) of subdivision (d) shall not be
20 construed to require employers to provide reasonable
21 accommodation to smokers, or to provide breakrooms for smokers
22 or nonsmokers.

23 (f) (1) Except as otherwise provided in this subdivision,
24 smoking may be permitted in gaming clubs, as defined in paragraph
25 (7) of subdivision (d), and in bars and taverns, as defined in
26 paragraph (8) of subdivision (d), until the earlier of the following:

27 (A) January 1, 1998.

28 (B) The date of adoption of a regulation (i) by the Occupational
29 Safety and Health Standards Board reducing the permissible
30 employee exposure level to environmental tobacco smoke to a
31 level that will prevent anything other than insignificantly harmful
32 effects to exposed employees or (ii) by the federal Environmental
33 Protection Agency establishing a standard for reduction of
34 permissible exposure to environmental tobacco smoke to an
35 exposure level that will prevent anything other than insignificantly
36 harmful effects to exposed persons.

37 (2) If a regulation specified in subparagraph (B) of paragraph
38 (1) is adopted on or before January 1, 1998, smoking may thereafter
39 be permitted in gaming clubs and in bars and taverns, subject to
40 full compliance with, or conformity to, the standard in the

1 regulation within two years following the date of adoption of the
 2 regulation. An employer failing to achieve compliance with, or
 3 conformity to, the regulation within this two-year period shall
 4 prohibit smoking in the gaming club, bar, or tavern until
 5 compliance or conformity is achieved. If the Occupational Safety
 6 and Health Standards Board and the federal Environmental
 7 Protection Agency both adopt regulations specified in subparagraph
 8 (B) of paragraph (1) that are inconsistent, the regulations of the
 9 Occupational Safety and Health Standards Board shall be no less
 10 stringent than the regulations of the federal Environmental
 11 Protection Agency.

12 (3) If a regulation specified in subparagraph (B) of paragraph
 13 (1) is not adopted on or before January 1, 1998, the exemptions
 14 specified in paragraphs (7) and (8) of subdivision (d) shall become
 15 inoperative on and after January 1, 1998, until a regulation is
 16 adopted. Upon adoption of such a regulation on or after January
 17 1, 1998, smoking may thereafter be permitted in gaming clubs and
 18 in bars and taverns, subject to full compliance with, or conformity
 19 to, the standard in the regulation within two years following the
 20 date of adoption of the regulation. An employer failing to achieve
 21 compliance with, or conformity to, the regulation within this
 22 two-year period shall prohibit smoking in the gaming club, bar,
 23 or tavern until compliance or conformity is achieved. If the
 24 Occupational Safety and Health Standards Board and the federal
 25 Environmental Protection Agency both adopt regulations specified
 26 in subparagraph (B) of paragraph (1) that are inconsistent, the
 27 regulations of the Occupational Safety and Health Standards Board
 28 shall be no less stringent than the regulations of the federal
 29 Environmental Protection Agency.

30 (4) From January 1, 1997, to December 31, 1997, inclusive,
 31 smoking may be permitted in gaming clubs, as defined in paragraph
 32 (7) of subdivision (d), and in bars and taverns, as defined in
 33 paragraph (8) of subdivision (d), subject to both of the following
 34 conditions:

35 (A) If practicable, the gaming club or bar or tavern shall
 36 establish a designated nonsmoking area.

37 (B) If feasible, no employee shall be required, in the
 38 performance of ordinary work responsibilities, to enter any area
 39 in which smoking is permitted.

1 (g) The smoking prohibition set forth in this section shall
2 constitute a uniform statewide standard for regulating the smoking
3 of tobacco products in enclosed places of employment and shall
4 supersede and render unnecessary the local enactment or
5 enforcement of local ordinances regulating the smoking of tobacco
6 products in enclosed places of employment. Insofar as the smoking
7 prohibition set forth in this section is applicable to all ~~(100-percent)~~
8 *100 percent* places of employment within this state and, therefore,
9 provides the maximum degree of coverage, the practical effect of
10 this section is to eliminate the need of local governments to enact
11 enclosed workplace smoking restrictions within their respective
12 jurisdictions.

13 (h) Nothing in this section shall prohibit an employer from
14 prohibiting smoking *of tobacco products* in an enclosed place of
15 employment for any reason.

16 (i) The enactment of local regulation of smoking of tobacco
17 products in enclosed places of employment by local governments
18 shall be suspended only for as long as, and to the extent that, the
19 ~~(100-percent)~~ *(100 percent)* smoking prohibition provided for in
20 this section remains in effect. In the event this section is repealed
21 or modified by subsequent legislative or judicial action so that the
22 ~~(100-percent)~~ *(100 percent)* smoking prohibition is no longer
23 applicable to all enclosed places of employment in California,
24 local governments shall have the full right and authority to enforce
25 previously enacted, and to enact and enforce new, restrictions on
26 the smoking of tobacco products in enclosed places of employment
27 within their jurisdictions, including a complete prohibition of
28 smoking. Notwithstanding any other provision of this section, any
29 area not defined as a “place of employment” or in which smoking
30 is not regulated pursuant to subdivision (d) or (e), shall be subject
31 to local regulation of smoking of tobacco products.

32 (j) Any violation of the prohibition set forth in subdivision (b)
33 is an infraction, punishable by a fine not to exceed one hundred
34 dollars (\$100) for a first violation, two hundred dollars (\$200) for
35 a second violation within one year, and five hundred dollars (\$500)
36 for a third and for each subsequent violation within one year. This
37 subdivision shall be enforced by local law enforcement agencies,
38 including, but not limited to, local health departments, as
39 determined by the local governing body.

1 (k) Notwithstanding Section 6309, the division shall not be
 2 required to respond to any complaint regarding the smoking of
 3 tobacco products in an enclosed space at a place of employment,
 4 unless the employer has been found guilty pursuant to subdivision
 5 (j) of a third violation of subdivision (b) within the previous year.

6 (l) If any provision of this act or the application thereof to any
 7 person or circumstances is held invalid, that invalidity shall not
 8 affect other provisions or applications of the act that can be given
 9 effect without the invalid provision or application, and to this end
 10 the provisions of this act are severable.

11 (m) For purposes of this section, “smoking” has the meaning
 12 of the definition in subdivision (c) of Section 22950.5 of the
 13 Business and Professions Code.

14 (n) For purposes of this section, “tobacco product” means a
 15 product or device as defined in subdivision (d) of Section 22950.5
 16 of the Business and Professions Code.

17 SEC. 25. Section 308 of the Penal Code is amended to read:

18 308. (a) (1) Every person, firm, or corporation that knowingly
 19 or under circumstances in which it has knowledge, or should
 20 otherwise have grounds for knowledge, sells, gives, or in any way
 21 furnishes to another person who is under ~~the age of 18 years of~~
 22 ~~age~~ any tobacco, cigarette, or cigarette papers, or ~~blunts~~ *blunt*
 23 wraps, or any other preparation of tobacco, or any other instrument
 24 or paraphernalia that is designed for the smoking or ingestion of
 25 tobacco, ~~products prepared from tobacco,~~ *tobacco products*, or
 26 any controlled substance, is subject to either a criminal action for
 27 a misdemeanor or to a civil action brought by a city attorney, a
 28 county counsel, or a district attorney, punishable by a fine of two
 29 hundred dollars (\$200) for the first offense, five hundred dollars
 30 (\$500) for the second offense, and one thousand dollars (\$1,000)
 31 for the third offense.

32 Notwithstanding Section 1464 or any other law, 25 percent of
 33 each civil and criminal penalty collected pursuant to this
 34 subdivision shall be paid to the office of the city attorney, county
 35 counsel, or district attorney, whoever is responsible for bringing
 36 the successful action, and 25 percent of each civil and criminal
 37 penalty collected pursuant to this subdivision shall be paid to the
 38 city or county for the administration and cost of the community
 39 service work component provided in subdivision (b).

1 Proof that a defendant, or his or her employee or agent,
2 demanded, was shown, and reasonably relied upon evidence of
3 majority shall be defense to any action brought pursuant to this
4 subdivision. Evidence of majority of a person is a facsimile of or
5 a reasonable likeness of a document issued by a federal, state,
6 county, or municipal government, or subdivision or agency thereof,
7 including, but not limited to, a motor vehicle operator’s license, a
8 registration certificate issued under the federal Selective Service
9 Act, or an identification card issued to a member of the Armed
10 Forces.

11 For purposes of this section, the person liable for selling or
12 furnishing tobacco products to minors by a tobacco vending
13 machine shall be the person authorizing the installation or
14 placement of the tobacco vending machine upon premises he or
15 she manages or otherwise controls and under circumstances in
16 which he or she has knowledge, or should otherwise have grounds
17 for knowledge, that the tobacco vending machine will be utilized
18 by minors.

19 (2) For purposes of this section, “blunt wraps” means cigar
20 papers or cigar wrappers of all types that are designed for smoking
21 or ingestion of tobacco products and contain less than 50 percent
22 tobacco.

23 (b) Every person ~~under the age of~~ 18 years *of age* who
24 purchases, receives, or possesses any tobacco, cigarette, or cigarette
25 papers, or any other preparation of tobacco, or any other instrument
26 or paraphernalia that is designed for the smoking of tobacco,
27 ~~products prepared from tobacco;~~ *tobacco products*, or any
28 controlled substance shall, upon conviction, be punished by a fine
29 of seventy-five dollars (\$75) or 30 hours of community service
30 work.

31 (c) Every person, firm, or corporation that sells, or deals in
32 tobacco or any preparation thereof, shall post conspicuously and
33 keep so posted in his, her, or their place of business at each point
34 of purchase the notice required pursuant to subdivision (b) of
35 Section 22952 of the Business and Professions Code, and any
36 person failing to do so shall, upon conviction, be punished by a
37 fine of fifty dollars (\$50) for the first offense, one hundred dollars
38 (\$100) for the second offense, two hundred fifty dollars (\$250) for
39 the third offense, and five hundred dollars (\$500) for the fourth

1 offense and each subsequent violation of this provision, or by
 2 imprisonment in a county jail not exceeding 30 days.

3 (d) For purposes of determining the liability of persons, firms,
 4 or corporations controlling franchises or business operations in
 5 multiple locations for the second and subsequent violations of this
 6 section, each individual franchise or business location shall be
 7 deemed a separate entity.

8 (e) Notwithstanding subdivision (b), any person under 18 years
 9 of age who purchases, receives, or possesses any tobacco, cigarette,
 10 or cigarette papers, or any other preparation of tobacco, any other
 11 instrument or paraphernalia that is designed for the smoking of
 12 tobacco, or *tobacco* products ~~prepared from tobacco~~ is immune
 13 from prosecution for that purchase, receipt, or possession while
 14 participating in either of the following:

15 (1) An enforcement activity that complies with the guidelines
 16 adopted pursuant to subdivisions (c) and (d) of Section 22952 of
 17 the Business and Professions Code.

18 (2) An activity conducted by the State Department of Public
 19 Health, a local health department, or a law enforcement agency
 20 for the purpose of determining or evaluating youth tobacco
 21 purchase rates.

22 (f) It is the Legislature's intent to regulate the subject matter of
 23 this section. As a result, a city, county, or city and county shall not
 24 adopt any ordinance or regulation inconsistent with this section.

25 (g) *For purposes of this section, "smoking" has the meaning*
 26 *of the definition in subdivision (c) of Section 22950.5 of the*
 27 *Business and Professions Code.*

28 (h) *For purposes of this section, "tobacco product" means a*
 29 *product or device as defined in subdivision (d) of Section 22950.5*
 30 *of the Business and Professions Code.*

31 SEC. 26. Section 561 of the Public Utilities Code is amended
 32 to read:

33 561. (a) Every railroad corporation, passenger stage
 34 corporation, passenger air carrier, and street railroad corporation
 35 providing departures originating in this state shall prohibit the
 36 smoking of ~~any~~ a tobacco product in the passenger seating area of
 37 every passenger car, passenger stage, aircraft, or other vehicle.

38 (b) Every such corporation and carrier shall display in the
 39 passenger seating area of every passenger car, passenger stage,
 40 aircraft, or other vehicle, notices sufficient in number, posted in

1 such locations as to be readily seen by boarding passengers,
 2 advising passengers of the no smoking requirements pursuant to
 3 subdivision (a). Words on such notices which state “No Smoking”
 4 or an equivalent phrase shall be at least three-quarters of one inch
 5 high, and any other explanatory words on the notices shall be at
 6 least one-quarter of ~~an~~ one inch high.

7 (c) No person shall smoke ~~any~~ a tobacco product in a space
 8 known by him or her to be designated for nonsmoking passengers.
 9 A violation of this subdivision is not a crime.

10 (d) As used in this section, “passenger air carrier” shall have
 11 the same meaning as provided in Sections 2741 and 2743.

12 (e) *For purposes of this section, “smoke” and “smoking” have*
 13 *the meaning of the definition in subdivision (c) of Section 22950.5*
 14 *of the Business and Professions Code.*

15 (f) *For purposes of this section, “tobacco product” means a*
 16 *product or device as defined in subdivision (d) of Section 22950.5*
 17 *of the Business and Professions Code.*

18 SEC. 27. Section 99580 of the Public Utilities Code is amended
 19 to read:

20 99580. (a) Pursuant to subdivision (e) of Section 640 of the
 21 Penal Code, a public transportation agency may enact and enforce
 22 an ordinance to impose and enforce an administrative penalty for
 23 any of the acts described in subdivision (b). The ordinance shall
 24 include the provisions of this chapter and shall not apply to minors.

25 (b) (1) Evasion of the payment of a fare of the system.

26 (2) Misuse of a transfer, pass, ticket, or token with the intent to
 27 evade the payment of a fare.

28 (3) Playing sound equipment on or in a system facility or
 29 vehicle.

30 (4) ~~Smoking,~~ *Smoking a tobacco product,* eating, or drinking
 31 in or on a system facility or vehicle in those areas where those
 32 activities are prohibited by that system.

33 (5) Expectorating upon a system facility or vehicle.

34 (6) Willfully disturbing others on or in a system facility or
 35 vehicle by engaging in boisterous or unruly behavior.

36 (7) Carrying an explosive or acid, flammable liquid, or toxic or
 37 hazardous material in a system facility or vehicle.

38 (8) Urinating or defecating in a system facility or vehicle, except
 39 in a lavatory. However, this paragraph shall not apply to a person

1 who cannot comply with this paragraph as a result of a disability,
2 age, or a medical condition.

3 (9) (A) Willfully blocking the free movement of another person
4 in a system facility or vehicle.

5 (B) This paragraph shall not be interpreted to affect any lawful
6 activities permitted or first amendment rights protected under the
7 laws of this state or applicable federal law, including, but not
8 limited to, laws related to collective bargaining, labor relations,
9 or labor disputes.

10 (10) Skateboarding, roller skating, bicycle riding, or roller
11 blading in a system facility, including a parking structure, or in a
12 system vehicle. This paragraph does not apply to an activity that
13 is necessary for utilization of a system facility by a bicyclist,
14 including, but not limited to, an activity that is necessary for
15 parking a bicycle or transporting a bicycle aboard a system vehicle,
16 if that activity is conducted with the permission of the agency of
17 the system in a manner that does not interfere with the safety of
18 the bicyclist or other patrons of the system facility.

19 (11) (A) Unauthorized use of a discount ticket or failure to
20 present, upon request from a system representative, acceptable
21 proof of eligibility to use a discount ticket, in accordance with
22 Section 99155, and posted system identification policies when
23 entering or exiting a system station or vehicle. Acceptable proof
24 of eligibility must be clearly defined in the posting.

25 (B) In the event that an eligible discount ticket user is not in
26 possession of acceptable proof at the time of request, an issued
27 notice of fare evasion or passenger conduct violation shall be held
28 for a period of 72 hours to allow the user to produce acceptable
29 proof. If the proof is provided, that notice shall be voided. If the
30 proof is not produced within that time period, that notice shall be
31 processed.

32 (12) Sale or peddling of any goods, merchandise, property, or
33 services of any kind whatsoever on the facilities, vehicles, or
34 property of the public transportation system without the express
35 written consent of the public transportation system or its duly
36 authorized representatives.

37 (c) (1) The public transportation agency may contract with a
38 private vendor or governmental agency for the processing of notices
39 of fare evasion or passenger conduct violation, and notices of

1 delinquent fare evasion or passenger conduct violation pursuant
2 to Section 99581.

3 (2) For the purpose of this chapter, “processing agency” means
4 either of the following:

5 (A) The agency issuing the notice of fare evasion or passenger
6 conduct violation and the notice of delinquent fare evasion or
7 passenger conduct violation.

8 (B) The party responsible for processing the notice of fare
9 evasion or passenger conduct violation and the notice of delinquent
10 violation, if a contract is entered into pursuant to paragraph (1).

11 (3) For the purpose of this chapter, “fare evasion or passenger
12 conduct violation penalty” includes, but is not limited to, a late
13 payment penalty, administrative fee, fine, assessment, and costs
14 of collection as provided for in the ordinance.

15 (4) For the purpose of this chapter, “public transportation
16 agency” shall mean a public agency that provides public
17 transportation as defined in paragraph (1) of subdivision (f) of
18 Section 1 of Article XIX A of the California Constitution.

19 (5) All fare evasion and passenger conduct violation penalties
20 collected pursuant to this chapter shall be deposited in the general
21 fund of the county in which the citation is administered.

22 (d) (1) If a fare evasion or passenger conduct violation is
23 observed by a person authorized to enforce the ordinance, a notice
24 of fare evasion or passenger conduct violation shall be issued. The
25 notice shall set forth the violation, including reference to the
26 ordinance setting forth the administrative penalty, the date of the
27 violation, the approximate time, and the location where the
28 violation occurred. The notice shall include a printed statement
29 indicating the date payment is required to be made, and the
30 procedure for contesting the notice. The notice shall be served by
31 personal service upon the violator. The notice, or copy of the
32 notice, shall be considered a record kept in the ordinary course of
33 business of the issuing agency and the processing agency, and
34 shall be prima facie evidence of the facts contained in the notice
35 establishing a rebuttable presumption affecting the burden of
36 producing evidence.

37 (2) When a notice of fare evasion or passenger conduct violation
38 has been served, the person issuing the notice shall file the notice
39 with the processing agency.

1 (3) If, after a notice of fare evasion or passenger conduct
 2 violation is issued pursuant to this section, the issuing officer
 3 determines that there is incorrect data on the notice, including, but
 4 not limited to, the date or time, the issuing officer may indicate in
 5 writing on a form attached to the original notice the necessary
 6 correction to allow for the timely entry of the corrected notice on
 7 the processing agency’s data system. A copy of the correction shall
 8 be mailed to the address provided by the person cited at the time
 9 the original notice of fare evasion or passenger conduct violation
 10 was served.

11 (4) If a person contests a notice of fare evasion or passenger
 12 conduct violation, the issuing agency shall proceed in accordance
 13 with Section 99581.

14 (e) In setting the amounts of administrative penalties for the
 15 violations listed in subdivision (b), the public transportation agency
 16 shall not establish penalty amounts that exceed the maximum fine
 17 amount set forth in Section 640 of the Penal Code.

18 (f) A person who receives a notice of fare evasion or passenger
 19 conduct violation pursuant to this section shall not be subject to
 20 citation for a violation of Section 640 of the Penal Code.

21 (g) If an entity enacts an ordinance pursuant to this section it
 22 shall, both two years and five years after enactment of the
 23 ordinance, report all of the following information to the Senate
 24 Committee on Transportation and Housing and the Assembly
 25 Committee on Transportation:

26 (1) A description of the ordinance, including the circumstances
 27 under which an alleged violator is afforded the opportunity to
 28 complete the administrative process.

29 (2) The amount of the administrative penalties.

30 (3) The number and types of citations administered pursuant to
 31 the ordinance.

32 (4) To the extent available, a comparison of the number and
 33 types of citations administered pursuant to the ordinance with the
 34 number and types of citations issued for similar offenses and
 35 administered through the courts both in the two years prior to the
 36 ordinance and, if any, since enactment of the ordinance.

37 (5) A discussion of the effect of the ordinance on passenger
 38 behavior.

39 (6) A discussion of the effect of the ordinance on revenues to
 40 the entity described in subdivision (a) and, in consultation with

1 the superior courts, the cost savings to the county courts. The
2 superior courts are encouraged to collaborate on and provide data
3 for this report.

4 (h) For purposes of this section, “smoking” has the meaning
5 of the definition in subdivision (c) of Section 22950.5 of the
6 Business and Professions Code.

7 (i) For purposes of this section, “tobacco product” means a
8 product or device as defined in subdivision (d) of Section 22950.5
9 of the Business and Professions Code.

10 SEC. 28. Section 12523 of the Vehicle Code is amended to
11 read:

12 12523. (a) No person shall operate a youth bus without having
13 in possession a valid driver’s license of the appropriate class,
14 endorsed for passenger transportation and a certificate issued by
15 the department to permit the operation of a youth bus.

16 (b) Applicants for a certificate to drive a youth bus shall present
17 evidence that they have successfully completed a driver training
18 course administered by or at the direction of their employer
19 consisting of a minimum of 10 hours of classroom instruction
20 covering applicable laws and regulations and defensive driving
21 practices and a minimum of 10 hours of behind-the-wheel training
22 in a vehicle to be used as a youth bus. Applicants seeking to renew
23 a certificate to drive a youth bus shall present evidence that they
24 have received two hours of refresher training during each 12
25 months of driver certificate validity.

26 (c) The driver certificate shall be issued only to applicants
27 qualified by examinations prescribed by the Department of Motor
28 Vehicles and the Department of the California Highway Patrol,
29 and upon payment of a fee of twenty-five dollars (\$25) for an
30 original certificate and twelve dollars (\$12) for the renewal of that
31 certificate to the Department of the California Highway Patrol.
32 The examinations shall be conducted by the Department of the
33 California Highway Patrol. The Department of Motor Vehicles
34 may deny, suspend, or revoke a certificate valid for driving a youth
35 bus for the causes specified in this code or in regulations adopted
36 pursuant to this code.

37 (d) An operator of a youth bus shall, at all times when operating
38 a youth bus, do all of the following:

- 39 (1) Use seat belts.
40 (2) Refrain from ~~smoking~~ *smoking tobacco products*.

1 (3) Report any accidents reportable under Section 16000 to the
2 Department of the California Highway Patrol.

3 (e) A person holding a valid certificate to permit the operation
4 of a youth bus, issued prior to January 1, 1991, shall not be required
5 to reapply for a certificate to satisfy any additional requirements
6 imposed by the act adding this subdivision until the certificate he
7 or she holds expires or is canceled or revoked.

8 (f) *For purposes of this section, “smoking” has the meaning of*
9 *the definition in subdivision (c) of Section 22950.5 of the Business*
10 *and Professions Code.*

11 (g) *For purposes of this section, “tobacco product” means a*
12 *product or device as defined in subdivision (d) of Section 22950.5*
13 *of the Business and Professions Code.*

14 SEC. 29. This act does not affect any laws or regulations
15 regarding medical cannabis.

16 SEC. 30. No reimbursement is required by this act pursuant
17 to Section 6 of Article XIII B of the California Constitution because
18 the only costs that may be incurred by a local agency or school
19 district will be incurred because this act creates a new crime or
20 infraction, eliminates a crime or infraction, or changes the penalty
21 for a crime or infraction, within the meaning of Section 17556 of
22 the Government Code, or changes the definition of a crime within
23 the meaning of Section 6 of Article XIII B of the California
24 Constitution.

O

California State Senate

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SENATOR
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SB 2X 7 (Hernandez) Factsheet

Tobacco 21

Purpose

This bill seeks to decrease tobacco addiction in California by severely limiting youth access to tobacco products. In doing so, SB 2X 7 will reduce the number of Californians who become lifetime smokers and suffer from the long terms impacts of tobacco usage.

Background

In June 2015, the Senate convened the second extraordinary session to deal with public health and developmental services shortfalls and examine policies that would help reduce the financial toll of Medi-Cal on the state. While the tobacco 21 movement previously stalled in regular session, special session offers a unique avenue to reexamine the health and cost implications of tobacco reduction. SB 2X 7 was reintroduced as part of a larger anti-tobacco package because it offers potential to significantly reduce costs to the state for health care expenditures, but more importantly to save lives.

The truth, as Henry Waxman famously stated, is that cigarettes are the single most dangerous consumer product ever sold.

In 1964, the Surgeon General released a report that linked smoking to many health issues, including lung cancer and heart disease. This landmark report laid the foundation on which tobacco control was built. Since that time, smoking rates have progressively decreased, but it still remains a significant problem as roughly 18% of the American population smokes cigarettes. Tobacco remains the leading cause of preventable death in the United States with 480,000 people dying annually – 40,000 from effects of secondhand smoke. According to the CDC, tobacco use kills more people per year than alcohol, murders, illegal drugs, AIDS, and motor vehicle accidents *combined*.

Aside from the vast human toll, tobacco is a heavy burden financially. The Campaign for Tobacco Free Kids estimates, direct health care expenditures related to smoking in California amount to approximately \$13.3 billion annually – with about \$3.5 billion in Medi-Cal costs. They also estimate California experiences a \$10.3 billion loss in productivity related to tobacco usage.

It is estimated that 90% of tobacco users start before the age of 21, roughly 80% first try tobacco before age 18, and 75% of teen smokers continue into their adult years. Additionally, studies have shown that a large percentage of people who purchase cigarettes for illegal distribution are under 21 years of age. Evolving neuroscientific evidence also suggests that the adolescent brain has a heightened susceptibility to the addictive qualities of nicotine. Research by the Surgeon General indicates that adolescents can become dependent on nicotine very rapidly, at lower levels of consumption than adults.

There have been a number of cities and municipalities across the country that have implemented a similar age increase to 21 and the early results are encouraging. In Needham, MA the youth smoking rate was cut nearly in half after such a policy was implemented, which was triple that of its surrounding neighbors. Hawaii recently became the first state to increase its tobacco purchase age to 21.

In 2013, responding to the continued burden of tobacco, the FDA commissioned the Institute of Medicine to study the effectiveness of raising the MLA. They concluded that raising the MLA to 21 would cause the smoking prevalence to decline by 12 percent more than existing control policies and would result in 200,000 fewer premature deaths for those born between the years 2000 and 2019 and cause a more rapid decline in tobacco prevalence.

In the recently released American Lung Association report, The State of Tobacco Control, California received an “F” grade in tobacco prevention. Cigarette sales to those under 21 account for approximately 2% of total sales and yet lead to 90% of total smokers. Even the tobacco industry recognizes 18-21 year olds are the key target market for its massive marketing campaigns. A Philip Morris report has been quoted as stating “Raising the legal minimum age for cigarette purchaser to 21 could gut our key young adult market...” Formerly a leader in tobacco control programs, California needs to do more to reduce the sale of tobacco products in our communities and to protect our youth from becoming addicted to this deadly drug.

This Bill

SB 2X 7 changes the minimum legal purchase age for all tobacco products in California from 18 to 21.

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SENATE BILL

No. 7

**Introduced by Senator Hernandez
(Coauthors: Senators Leno, McGuire, and Mitchell)**

July 16, 2015

An act to amend Sections 17537.3, 22951, 22952, 22956, 22958, and 22963 of, and to add Section 22964 to, the Business and Professions Code, and to amend Section 308 of the Penal Code, relating to tobacco.

LEGISLATIVE COUNSEL'S DIGEST

SB 7, as introduced, Hernandez. Tobacco products: minimum legal age.

Existing law, the Stop Tobacco Access to Kids Enforcement (STAKE) Act, establishes various requirements for distributors and retailers relating to tobacco sales to minors. Existing law prohibits the furnishing of tobacco products to, and the purchase of tobacco products by, a person under 18 years of age. Under existing law, a person is prohibited from making various promotional or advertising offers of smokeless tobacco products without taking actions to ensure that the product is not available to persons under 18 years of age. Existing law also requires the State Department of Public Health to conduct random, onsite sting inspections of tobacco product retailers with the assistance of persons under 18 years of age.

This bill would extend the applicability of those provisions to persons under 21 years of age. The bill would authorize the State Department of Public Health to conduct random, onsite sting inspections of tobacco product retailers with the assistance of persons under 21 years of age.

The bill would also provide that the STAKE Act does not invalidate existing local government ordinances or prohibit the adoption of local

government ordinances requiring a more restrictive legal age to purchase or possess tobacco products.

By expanding the scope of existing crimes, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17537.3 of the Business and Professions
2 Code is amended to read:

3 17537.3. The following acts are prohibited:

4 (a) For ~~any~~ a person to offer as part of an advertising plan or
5 program, promotional offers of smokeless tobacco products which
6 require proof of purchase of a smokeless tobacco product unless
7 it carries a designation that the offer is not available to ~~minors~~
8 *persons under 21 years of age*. Each promotional offer shall include
9 in any mail-in coupon a statement requesting purchasers to verify
10 that the purchaser is ~~18~~ 21 years of age or older.

11 (b) For ~~any~~ a person to honor mail-in and telephone requests
12 for promotional offers of smokeless tobacco products unless
13 appropriate efforts are made to ascertain that a purchaser is over
14 ~~18~~ 21 years of age. For purposes of this subdivision, appropriate
15 efforts to ascertain the age of a purchaser ~~includes~~ *include*, but ~~is~~
16 *are* not limited to, requests for a purchaser’s birth date.

17 (c) For ~~any~~ a person by any means, as part of an advertising
18 plan or program, to distribute free samples of smokeless tobacco
19 products within a ~~two-block~~ *two-block* radius of any premises or
20 facilities whose primary purpose is directed toward persons under
21 ~~the age of 18~~ 21 years of age including, but not limited to, schools,
22 clubhouses, and youth centers, when those premises are being used
23 for their primary purposes.

24 (d) For ~~any~~ a person to distribute, as part of any advertising
25 plan or program, unsolicited samples of smokeless tobacco
26 products through a mail campaign.

1 SEC. 2. Section 22951 of the Business and Professions Code
2 is amended to read:

3 22951. The Legislature finds and declares that reducing and
4 eventually eliminating the illegal purchase and consumption of
5 tobacco products by ~~minors~~ *any person under 21 years of age* is
6 critical to ensuring the long-term health of our state’s citizens.
7 Accordingly, California must fully comply with federal regulations,
8 particularly the “Synar Amendment,” that restrict tobacco sales to
9 minors and require states to vigorously enforce their laws
10 prohibiting the sale and distribution of tobacco products to persons
11 under 18 years of age. Full compliance and vigorous enforcement
12 of the “Synar Amendment” requires the collaboration of multiple
13 state and local agencies that license, inspect, or otherwise conduct
14 business with retailers, distributors, or wholesalers that sell tobacco.

15 SEC. 3. Section 22952 of the Business and Professions Code
16 is amended to read:

17 22952. ~~On or before July 1, 1995, the~~ *The* State Department
18 of Public Health shall do all of the following:

19 (a) Establish and develop a program to reduce the availability
20 of tobacco products to persons under ~~18~~ *21* years of age through
21 the enforcement activities authorized by this division.

22 (b) Establish requirements that retailers of tobacco products
23 post conspicuously, at each point of purchase, a notice stating that
24 selling tobacco products to anyone under ~~18~~ *21* years of age is
25 illegal and subject to penalties. The notice shall also state that the
26 law requires that all persons selling tobacco products check the
27 identification of a purchaser of tobacco products who reasonably
28 appears to be under ~~18~~ *21* years of age. The warning signs shall
29 include a toll-free telephone number to the department for persons
30 to report unlawful sales of tobacco products to ~~minors~~ *any person*
31 *under 21 years of age*.

32 (c) Provide that primary responsibility for enforcement of this
33 division shall be with the department. In carrying out its
34 enforcement responsibilities, the department shall conduct random,
35 onsite sting inspections at retail sites and shall enlist the assistance
36 of persons that are ~~15 and 16~~ *under 21* years of age in conducting
37 these enforcement activities. The department may conduct onsite
38 sting inspections in response to public complaints or at retail sites
39 where violations have previously occurred, and investigate illegal
40 sales of tobacco products to ~~minors~~ *any person under 21 years of*

1 *age* by telephone, mail, or the Internet. Participation in these
 2 enforcement activities by a person under ~~18~~ 21 years of age does
 3 not constitute a violation of subdivision (b) of Section 308 of the
 4 Penal Code for the person under ~~18~~ 21 years of age, and the person
 5 under ~~18~~ 21 years of age is immune from prosecution thereunder,
 6 or under any other ~~provision~~ of law prohibiting the purchase of
 7 these products by a person under ~~18~~ 21 years of age.

8 (d) In accordance with Chapter 3.5 (commencing with Section
 9 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
 10 the department shall adopt and publish guidelines for the use of
 11 persons under ~~18~~ 21 years of age in inspections conducted pursuant
 12 to subdivision (c) that shall include, but not be limited to, all of
 13 the following:

14 (1) An enforcing agency may use persons under ~~18~~ years of age
 15 ~~who are 15 or 16~~ 21 years of age in random inspections to
 16 determine if sales of cigarettes or other tobacco products are being
 17 made to persons under ~~18~~ 21 years of age.

18 (2) A photograph or video recording of the person under ~~18~~ 21
 19 years of age shall be taken prior to each inspection or shift of
 20 inspections and retained by the enforcing agency for purposes of
 21 verifying appearances.

22 (3) An enforcing agency may use video recording equipment
 23 when conducting the inspections to record and document illegal
 24 sales or attempted sales.

25 (4) The person under ~~18~~ 21 years of age, if questioned about
 26 his or her age, need not state his or her actual age but shall present
 27 a true and correct identification if verbally asked to present it. Any
 28 failure on the part of the person under ~~18~~ 21 years of age to provide
 29 true and correct identification, if verbally asked for it, shall be a
 30 defense to an action pursuant to this section.

31 (5) The person under ~~18~~ 21 years of age shall be under the
 32 supervision of a regularly employed peace officer during the
 33 inspection.

34 (6) All persons under ~~18~~ 21 years of age used in this manner by
 35 an enforcing agency shall display the appearance of a person under
 36 ~~18~~ 21 years of age. It shall be a defense to an action under this
 37 division that the person's appearance was not that which could be
 38 generally expected of a person under ~~18~~ 21 years of age, under the
 39 actual circumstances presented to the seller of the cigarettes or
 40 other tobacco products at the time of the alleged offense.

2

1 (7) Following the completion of the sale, the peace officer
2 accompanying the person under ~~18~~ 21 years of age shall reenter
3 the retail establishment and shall inform the seller of the random
4 inspection. Following an attempted sale, the enforcing agency shall
5 notify the retail establishment of the inspection.

6 (8) Failure to comply with the procedures set forth in this
7 subdivision shall be a defense to an action brought pursuant to this
8 section.

9 (e) Be responsible for ensuring and reporting the state's
10 compliance with Section 1926 of Title XIX of the federal Public
11 Health Service Act (42 U.S.C. Sec. 300x-26) and any implementing
12 regulations adopted in relation thereto by the United States
13 Department of Health and Human Services. A copy of this report
14 shall be made available to the Governor and the Legislature.

15 (f) Provide that any civil penalties imposed pursuant to Section
16 22958 shall be enforced against the owner or owners of the retail
17 business and not the employees of the business.

18 SEC. 4. Section 22956 of the Business and Professions Code
19 is amended to read:

20 22956. All persons engaging in the retail sale of tobacco
21 products shall check the identification of tobacco purchasers, to
22 establish the age of the purchaser, if the purchaser reasonably
23 appears to be under ~~18~~ 21 years of age.

24 SEC. 5. Section 22958 of the Business and Professions Code
25 is amended to read:

26 22958. (a) An enforcing agency may assess civil penalties
27 against any person, firm, or corporation that sells, gives, or in any
28 way furnishes to another person who is under ~~the age of 18 years,~~
29 *21 years of age*, any tobacco, cigarette, cigarette papers, any other
30 instrument or paraphernalia that is designed for the smoking or
31 ingestion of tobacco, products prepared from tobacco, or any
32 controlled substance, according to the following schedule: (1) a
33 civil penalty of ~~from~~ four hundred dollars (\$400) to six hundred
34 dollars (\$600) for the first violation, (2) a civil penalty of ~~from~~
35 nine hundred dollars (\$900) to one thousand dollars (\$1,000) for
36 the second violation within a five-year period, (3) a civil penalty
37 of ~~from~~ one thousand two hundred dollars (\$1,200) to one thousand
38 eight hundred dollars (\$1,800) for a third violation within a
39 five-year period, (4) a civil penalty of ~~from~~ three thousand dollars
40 (\$3,000) to four thousand dollars (\$4,000) for a fourth violation

1 within a five-year period, or (5) a civil penalty of ~~from~~ five
2 thousand dollars (\$5,000) to six thousand dollars (\$6,000) for a
3 fifth violation within a five-year period.

4 (b) (1) In addition to the civil penalties described in subdivision
5 (a), upon the assessment of a civil penalty for the third, fourth, or
6 fifth violation, the department, within 60 days of the date of service
7 of the final administrative adjudication on the parties or payment
8 of the civil penalty for an uncontested violation, shall notify the
9 State Board of Equalization of the violation. The State Board of
10 Equalization shall then assess a civil penalty of two hundred fifty
11 dollars (\$250) and suspend or revoke a license issued pursuant to
12 Chapter 2 (commencing with Section 22972) of Division 8.6 in
13 accordance with the following schedule:

14 (A) A 45-day suspension of the license for a third violation at
15 the same location within a five-year period.

16 (B) A 90-day suspension of the license for a fourth violation at
17 the same location within a five-year period.

18 (C) Revocation of the license for a fifth violation at the same
19 location within a five-year period.

20 (2) The provisions of Chapter 4 (commencing with Section
21 55121) of Part 30 of Division 2 of the Revenue and Taxation Code
22 apply with respect to the collection of the penalty imposed by the
23 State Board of Equalization pursuant to paragraph (1).

24 (c) (1) For each suspension or revocation pursuant to
25 subdivision (b), the civil penalty of two hundred fifty dollars (\$250)
26 assessed pursuant to that subdivision, notwithstanding Section
27 22953, shall be deposited into the Cigarette and Tobacco Products
28 Compliance Fund established pursuant to Section 22990. Moneys
29 from that civil penalty deposited into this fund shall be made
30 available to the State Board of Equalization, upon appropriation
31 by the Legislature, for the purposes of meeting ~~its~~ *the board's*
32 duties under subdivision (b).

33 (2) The department shall, upon request, provide to the State
34 Board of Equalization information concerning any person, firm,
35 or corporation that has been assessed a civil penalty for violation
36 of the STAKE Act pursuant to this section when the department
37 has notified the State Board of Equalization of the violation.

38 (d) The enforcing agency shall assess penalties pursuant to the
39 schedule set forth in subdivision (a) against a person, firm, or
40 corporation that sells, offers for sale, or distributes tobacco products

1 from a cigarette or tobacco products vending machine, or a person,
2 firm, or corporation that leases, furnishes, or services these
3 machines in violation of Section 22960.

4 (e) An enforcing agency may assess civil penalties against a
5 person, firm, or corporation that sells or deals in tobacco or any
6 preparation thereof, and fails to post conspicuously and keep posted
7 in the place of business at each point of purchase the notice
8 required pursuant to subdivision (b) of Section 22952. The civil
9 penalty shall be in the amount of two hundred dollars (\$200) for
10 the first offense and five hundred dollars (\$500) for each additional
11 violation.

12 (f) An enforcing agency shall assess penalties in accordance
13 with the schedule set forth in subdivision (a) against a person, firm,
14 or corporation that advertises or causes to be advertised a tobacco
15 product on an outdoor billboard in violation of Section 22961.

16 (g) If a civil penalty has been assessed pursuant to this section
17 against a person, firm, or corporation for a single, specific violation
18 of this division, the person, firm, or corporation shall not be
19 prosecuted under Section 308 of the Penal Code for a violation
20 based on the same facts or specific incident for which the civil
21 penalty was assessed. If a person, firm, or corporation has been
22 prosecuted for a single, specific violation of Section 308 of the
23 Penal Code, the person, firm, or corporation shall not be assessed
24 a civil penalty under this section based on the same facts or specific
25 incident upon which the prosecution under Section 308 of the Penal
26 Code was based.

27 (h) (1) In the case of a corporation or business with more than
28 one retail location, to determine the number of accumulated
29 violations for purposes of the penalty schedule set forth in
30 subdivision (a), violations of this division by one retail location
31 shall not be accumulated against other retail locations of that same
32 corporation or business.

33 (2) In the case of a retail location that operates pursuant to a
34 franchise as defined in Section 20001, violations of this division
35 accumulated and assessed against a prior owner of a single
36 franchise location shall not be accumulated against a new owner
37 of the same single franchise location for purposes of the penalty
38 schedule set forth in subdivision (a).

39 (i) Proceedings under this section shall be conducted pursuant
40 to Section 131071 of the Health and Safety Code, except in cases

1 where a civil penalty is assessed by an enforcing agency other than
2 the department, in which case proceedings shall be conducted
3 pursuant to the procedures of that agency that are consistent with
4 Section 131071 of the Health and Safety Code.

5 SEC. 6. Section 22963 of the Business and Professions Code
6 is amended to read:

7 22963. (a) The sale, distribution, or nonsale distribution of
8 tobacco products directly or indirectly to any person under ~~the age~~
9 ~~of 18~~ *21 years of age* through the United States Postal Service or
10 through any other public or private postal or package delivery
11 service at locations, including, but not limited to, public mailboxes
12 and mailbox stores, is prohibited.

13 (b) ~~Any~~ A person selling or distributing, or engaging in the
14 nonsale distribution of, tobacco products directly to a consumer
15 in the state through the United States Postal Service or by any
16 other public or private postal or package delivery service, including
17 orders placed by mail, telephone, facsimile transmission, or the
18 Internet, shall comply with the following provisions:

19 (1) (A) Before enrolling a person as a customer, or distributing
20 or selling, or engaging in the nonsale distribution of, the tobacco
21 product through any of these means, the distributor or seller shall
22 verify that the purchaser or recipient of the product is ~~18~~ *21* years
23 of age or older. The distributor or seller shall attempt to match the
24 name, address, and date of birth provided by the customer to
25 information contained in records in a database of individuals whose
26 age has been verified to be ~~18~~ *21* years *of age* or older by reference
27 to an appropriate database of government records kept by the
28 distributor, a direct marketing firm, or any other entity. In the case
29 of a sale, the distributor or seller shall also verify that the billing
30 address on the check or credit card offered for payment by the
31 purchaser matches the address listed in the database.

32 (B) If the seller, distributor, or nonsale distributor, is unable to
33 verify that the purchaser or recipient is ~~18~~ *21* years of age or older
34 pursuant to subparagraph (A), he or she shall require the customer
35 or recipient to submit an age-verification kit consisting of an
36 attestation signed by the customer or recipient that he or she is ~~18~~
37 *21* years of age or older and a copy of a valid form of government
38 identification. For the purposes of this section, a valid form of
39 government identification includes a driver's license, state
40 identification card, passport, an official naturalization or

1 immigration document, such as an alien registration receipt card
2 (commonly known as a “green card”) or an immigrant visa, or
3 military identification. In the case of a sale, the distributor or seller
4 shall also verify that the billing address on the check or credit card
5 provided by the consumer matches the address listed in the form
6 of government identification.

7 (2) In the case of a sale, the distributor or seller shall impose a
8 two-carton minimum on each order of cigarettes, and shall require
9 payment for the purchase of any tobacco product to be made by
10 personal check of the purchaser or the purchaser’s credit card. No
11 money order or cash payment shall be received or permitted. The
12 distributor or seller shall submit to each credit card acquiring
13 company with which it has credit card sales identification
14 information in an appropriate form and format so that the words
15 “tobacco product” may be printed in the purchaser’s credit card
16 statement when a purchase of a tobacco product is made by credit
17 card payment.

18 (3) In the case of a sale, the distributor or seller shall make a
19 telephone call after 5 p.m. to the purchaser confirming the order
20 prior to shipping the tobacco products. The telephone call may be
21 a person-to-person call or a recorded message. The distributor or
22 seller is not required to speak directly with a person and may leave
23 a message on an answering machine or by voice mail.

24 (4) The nonsale distributor shall deliver the tobacco product to
25 the recipient’s verified mailing address, or in the case of a sale,
26 the seller or distributor shall deliver the tobacco product to the
27 purchaser’s verified billing address on the check or credit card
28 used for payment. No delivery described under this section shall
29 be permitted to any post office box.

30 (c) Notwithstanding subdivisions (a) and (b), if a seller,
31 distributor, or nonsale distributor, complies with all of the
32 requirements of this section and a ~~minor~~ *person under 21 years of*
33 *age* obtains a tobacco product by any of the means described in
34 subdivision (b), the seller, distributor, or nonsale distributor is not
35 in violation of this section.

36 (d) For the purposes of the enforcement of this section pursuant
37 to Section 22958, the acts of the United States Postal Service or
38 other common carrier when engaged in the business of transporting
39 and delivering packages for others, and the acts of a person,
40 whether compensated or not, who transports or delivers a package

1 for another person without any reason to know of the package’s
2 contents, are not unlawful and are not subject to civil penalties.

3 (e) (1) (A) For the purposes of this section, a “distributor” is
4 any person or entity, within or outside the state, who agrees to
5 distribute tobacco products to a customer or recipient within the
6 state. The United States Postal Service or any other public or
7 private postal or package delivery service are not distributors within
8 the meaning of this section.

9 (B) A “nonsale distributor” is any person inside or outside of
10 this state who, directly or indirectly, knowingly provides tobacco
11 products to any person in this state as part of a nonsale transaction.
12 “Nonsale distributor” includes the person or entity who provides
13 the tobacco product for delivery and the person or entity who
14 delivers the product to the recipient as part of a nonsale transaction.

15 (C) “Nonsale distribution” means to give smokeless tobacco or
16 cigarettes to the general public at no cost, or at nominal cost, or
17 to give coupons, coupon offers, gift certificates, gift cards, or other
18 similar offers, or rebate offers for smokeless tobacco or cigarettes
19 to the general public at no cost or at nominal cost. Distribution of
20 tobacco products, coupons, coupon offers, gift certificates, gift
21 cards, or other similar offers, or rebate offers in connection with
22 the sale of another item, including tobacco products, cigarette
23 lighters, magazines, or newspapers shall not constitute nonsale
24 distribution.

25 (2) For the purpose of this section, a “seller” is any person or
26 entity, within or outside the state, who agrees to sell tobacco
27 products to a customer within the state. The United States Postal
28 Service or any other public or private postal or package delivery
29 service are not sellers within the meaning of this section.

30 (3) For the purpose of this section, a “carton” is a package or
31 container that contains 200 cigarettes.

32 (f) A district attorney, city attorney, or the Attorney General
33 may assess civil penalties against any person, firm, corporation,
34 or other entity that violates this section, according to the following
35 schedule:

36 (1) A civil penalty of not less than one thousand dollars (\$1,000)
37 and not more than two thousand dollars (\$2,000) for the first
38 violation.

1 (2) A civil penalty of not less than two thousand five hundred
2 dollars (\$2,500) and not more than three thousand five hundred
3 dollars (\$3,500) for the second violation.

4 (3) A civil penalty of not less than four thousand dollars (\$4,000)
5 and not more than five thousand dollars (\$5,000) for the third
6 violation within a five-year period.

7 (4) A civil penalty of not less than five thousand five hundred
8 dollars (\$5,500) and not more than six thousand five hundred
9 dollars (\$6,500) for the fourth violation within a five-year period.

10 (5) A civil penalty of ten thousand dollars (\$10,000) for a fifth
11 or subsequent violation within a five-year period.

12 SEC. 7. Section 22964 is added to the Business and Professions
13 Code, to read:

14 22964. This division sets forth minimum state restrictions with
15 respect to the legal age to purchase or possess tobacco products
16 and does not preempt or otherwise prohibit the adoption of a local
17 standard that imposes a more restrictive legal age to purchase or
18 possess tobacco products. A local standard that imposes a more
19 restrictive legal age to purchase or possess tobacco products shall
20 control in the event of any inconsistency between this division and
21 a local standard.

22 SEC. 8. Section 308 of the Penal Code is amended to read:

23 308. (a) (1) Every person, firm, or corporation that knowingly
24 or under circumstances in which it has knowledge, or should
25 otherwise have grounds for knowledge, sells, gives, or in any way
26 furnishes to another person who is under ~~the age of 18~~ *21 years of*
27 *age* any tobacco, cigarette, or cigarette papers, or ~~blunts~~ *blunt*
28 wraps, or any other preparation of tobacco, or any other instrument
29 or paraphernalia that is designed for the smoking or ingestion of
30 tobacco, products prepared from tobacco, or any controlled
31 substance, is subject to either a criminal action for a misdemeanor
32 or to a civil action brought by a city attorney, a county counsel, or
33 a district attorney, punishable by a fine of two hundred dollars
34 (\$200) for the first offense, five hundred dollars (\$500) for the
35 second offense, and one thousand dollars (\$1,000) for the third
36 offense.

37 Notwithstanding Section 1464 or any other law, 25 percent of
38 each civil and criminal penalty collected pursuant to this
39 subdivision shall be paid to the office of the city attorney, county
40 counsel, or district attorney, whoever is responsible for bringing

1 the successful action, and 25 percent of each civil and criminal
 2 penalty collected pursuant to this subdivision shall be paid to the
 3 city or county for the administration and cost of the community
 4 service work component provided in subdivision (b).

5 Proof that a defendant, or his or her employee or agent,
 6 demanded, was shown, and reasonably relied upon evidence of
 7 majority shall be defense to any action brought pursuant to this
 8 subdivision. Evidence of majority of a person is a facsimile of or
 9 a reasonable likeness of a document issued by a federal, state,
 10 county, or municipal government, or subdivision or agency thereof,
 11 including, but not limited to, a motor vehicle operator's license, a
 12 registration certificate issued under the federal Selective Service
 13 Act, or an identification card issued to a member of the Armed
 14 Forces.

15 For purposes of this section, the person liable for selling or
 16 furnishing tobacco products to ~~minors~~ *persons under 21 years of*
 17 *age* by a tobacco vending machine shall be the person authorizing
 18 the installation or placement of the tobacco vending machine upon
 19 premises he or she manages or otherwise controls and under
 20 circumstances in which he or she has knowledge, or should
 21 otherwise have grounds for knowledge, that the tobacco vending
 22 machine will be utilized by ~~minors~~ *persons under 21 years of age*.

23 (2) For purposes of this section, "blunt wraps" means cigar
 24 papers or cigar wrappers of all types that are designed for smoking
 25 or ingestion of tobacco products and contain less than 50 percent
 26 tobacco.

27 (b) Every person ~~under the age of 18~~ *21 years of age* who
 28 purchases, receives, or possesses any tobacco, cigarette, or cigarette
 29 papers, or any other preparation of tobacco, or any other instrument
 30 or paraphernalia that is designed for the smoking of tobacco,
 31 products prepared from tobacco, or any controlled substance shall,
 32 upon conviction, be punished by a fine of seventy-five dollars
 33 (\$75) or 30 hours of community service work.

34 (c) Every person, firm, or corporation that sells, or deals in
 35 tobacco or any preparation thereof, shall post conspicuously and
 36 keep so posted in his, her, or their place of business at each point
 37 of purchase the notice required pursuant to subdivision (b) of
 38 Section 22952 of the Business and Professions Code, and any
 39 person failing to do so shall, upon conviction, be punished by a
 40 fine of fifty dollars (\$50) for the first offense, one hundred dollars

1 (\$100) for the second offense, two hundred fifty dollars (\$250) for
2 the third offense, and five hundred dollars (\$500) for the fourth
3 offense and each subsequent violation of this provision, or by
4 imprisonment in a county jail not exceeding 30 days.

5 (d) For purposes of determining the liability of persons, firms,
6 or corporations controlling franchises or business operations in
7 multiple locations for the second and subsequent violations of this
8 section, each individual franchise or business location shall be
9 deemed a separate entity.

10 (e) Notwithstanding subdivision (b), any person under 18 21
11 years of age who purchases, receives, or possesses any tobacco,
12 cigarette, or cigarette papers, or any other preparation of tobacco,
13 any other instrument or paraphernalia that is designed for the
14 smoking of tobacco, or products prepared from tobacco is immune
15 from prosecution for that purchase, receipt, or possession while
16 participating in either of the following:

17 (1) An enforcement activity that complies with the guidelines
18 adopted pursuant to subdivisions (c) and (d) of Section 22952 of
19 the Business and Professions Code.

20 (2) An activity conducted by the State Department of Public
21 Health, a local health department, or a law enforcement agency
22 for the purpose of determining or evaluating youth tobacco
23 purchase rates.

24 (f) It is the Legislature's intent to regulate the subject matter of
25 this section. As a result, a city, county, or city and county shall not
26 adopt any ordinance or regulation inconsistent with this section.

27 SEC. 9. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 the only costs that may be incurred by a local agency or school
30 district will be incurred because this act creates a new crime or
31 infraction, eliminates a crime or infraction, or changes the penalty
32 for a crime or infraction, within the meaning of Section 17556 of
33 the Government Code, or changes the definition of a crime within
34 the meaning of Section 6 of Article XIII B of the California
35 Constitution.

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SB 8 X2: Tobacco-Free Schools

Senator Carol Liu, 25th District

As introduced July 16, 2015

2015-2016 Second Extraordinary Session

SUMMARY

This bill requires all school districts, charter schools and county offices of education to adopt and enforce a tobacco-free campus policy. Schools would post signs declaring “Tobacco Use is Prohibited.”

BACKGROUND

Under current law, the California Department of Education provides grants for school-based, anti-tobacco education programs and tobacco use intervention and cessation activities to reduce the number of pupils who begin to use tobacco or continue to use tobacco.

California voters in 1988 passed Proposition 99, which increased the tax on each pack of cigarettes by 25 cents. The annual Budget Act appropriates funds from the Tobacco Tax for several purposes, including the Tobacco Use Prevention and Education (TUPE) program in schools.

School districts that receive these competitive grant funds must develop policies to ban any and all tobacco use on school property and in school-owned vehicles, and they must post the “Tobacco Use is Prohibited” signage.

According to the California Department of Education, all 58 of the county offices of education and over 75 percent of school districts in California are certified as tobacco-free school districts. Less than 10 percent of the direct-funded charter schools in California are certified. With more than half of California’s schools now 100 percent tobacco-free, the Legislature should make it clear this should become the standard for all schools

SOLUTION

This bill requires all public school districts, county offices of education and charter schools to develop a tobacco ban policy and post “Tobacco Use is Prohibited” signs at the entrance to school grounds, regardless of whether the school receives Prop. 99 funding.

Since the ballot measure passed nearly three decades ago, the tobacco industry has developed and promoted a wider range of tobacco products and tobacco-delivery devices such as electronic cigarettes.

This bill adds language to the Health and Safety Code to expand the definition of tobacco products to include electronic cigarettes, snuff, chew and other forms of smokeless tobacco.

A tobacco-free schools district policy often gives school employees the added motivation needed to cut down their tobacco use or quit altogether.

School districts generally work with voluntary health agencies, hospitals, health departments, employee assistance programs and other community organizations to support those employees who use tobacco and want to quit.

SPONSOR

Sen. Carol Liu

CONTACT:

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SENATE BILL

No. 8

Introduced by Senator Liu

July 16, 2015

An act to amend Sections 104420 and 104466 of, and to add Article 4 (commencing with Section 104559) to Chapter 1 of Part 3 of Division 103 of, the Health and Safety Code, relating to tobacco use programs.

LEGISLATIVE COUNSEL'S DIGEST

SB 8, as introduced, Liu. Tobacco use programs.

Existing law establishes the Tobacco Education and Research Oversight Committee to provide advice to the State Department of Public Health and the State Department of Education with respect to policy development, integration, and evaluation of tobacco education programs. Existing law requires the State Department of Education to allocate funds to county offices of education for tobacco use prevention, intervention, and cessation activities. Existing law also requires that all school districts and county offices of education that receive funding, as specified, adopt and enforce a tobacco-free campus policy, no later than July of each fiscal year, prohibiting the use of tobacco products, any time, in district-owned or leased buildings, on district property and in district vehicles.

This bill would expand eligibility for funding for the tobacco use prevention program to include charter schools. The bill would require the State Department of Education to require that all school districts, charter schools, and county offices of education receiving funding under the program adopt and enforce a tobacco-free campus policy prohibiting the use of products containing tobacco and nicotine, as specified.

The bill would also prohibit the use of tobacco and nicotine products in a county office of education, charter school or school district-owned or leased building, on school or district property, and in school or district vehicles without regard to whether those entities receive funding. The bill would require school districts, charter schools, and county offices of education to prominently display signs at all entrances to school property stating “Tobacco use is prohibited.” By imposing new duties on local educational agencies, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 104420 of the Health and Safety Code
2 is amended to read:

3 104420. The State Department of Education shall provide the
4 leadership for the successful implementation of this article in
5 programs administered by local public and private schools, school
6 districts, and county offices of education. The State Department
7 of Education shall do all of the following:

8 (a) Provide a planning and technical assistance program to carry
9 out its responsibilities under this article.

10 (b) Provide guidelines for schools, school districts, and school
11 district consortia to follow in the preparation of plans for
12 implementation of antitobacco use programs for schoolage
13 populations. The guidelines shall:

14 (1) Require the applicant agency to select one or more model
15 program designs and shall permit the applicant to modify the model
16 program designs to take special local needs and conditions into
17 account.

18 (2) Require the applicant agency to prepare for each target
19 population to be served a description of the service to be provided,

1 an estimate of the number to be served, an estimate of the success
2 rate, and a method to determine to what extent goals have been
3 achieved.

4 (3) Require plan submissions to include a staffing configuration
5 and a budget setting forth use and distribution of funds in a clear
6 and detailed manner.

7 (c) Prepare model program designs and information for schools,
8 school districts, consortia, and county offices of education to follow
9 in establishing direct service programs to targeted populations.
10 Model program designs shall, to the extent feasible, be based on
11 studies and evaluations that determine which service delivery
12 systems are effective in reducing tobacco use and are cost effective.
13 The State Department of Education shall consult with the
14 department, and school districts with existing antitobacco programs
15 in the preparation of model program designs and information.

16 (d) Provide technical assistance for schools, school districts,
17 and county offices of education regarding the prevention and
18 cessation of tobacco use. In fulfilling its technical assistance
19 responsibilities, the State Department of Education may establish
20 a center for tobacco use prevention that shall identify, maintain,
21 and develop instructional materials and curricula encouraging the
22 prevention or cessation of tobacco use. The State Department of
23 Education shall consult with the department and others with
24 expertise in antitobacco materials or curricula in the preparation
25 of these materials and curricula.

26 (e) Monitor the implementation of programs that it has approved
27 under this article to ensure successful implementation.

28 (f) Prepare guidelines within 180 days of the effective date of
29 this article for a school-based program of outreach, education,
30 intervention, counseling, peer counseling, and other activities to
31 reduce and prevent smoking among schoolage youth.

32 (g) Assist county offices of education to employ a tobacco use
33 prevention coordinator to assist local schools and local public and
34 community agencies in preventing tobacco use by pupils.

35 (h) Train the tobacco use prevention coordinators of county
36 offices of education so that they are:

37 (1) Familiar with relevant research regarding the effectiveness
38 of various kinds of antitobacco use programs.

39 (2) Familiar with department guidelines and requirements for
40 submission, review, and approval of school-based plans.

1 (3) Able to provide effective technical assistance to schools and
2 school districts.

3 (i) Establish a tobacco-free school recognition awards program.

4 (j) As a condition of receiving funds pursuant to this article, the
5 State Department of Education, county offices of education, *charter*
6 *schools*, and school districts shall ensure that they coordinate their
7 efforts toward smoking prevention and cessation with the lead
8 local agency in the community where the local school district is
9 located.

10 (k) (1) Develop, in coordination with the county offices of
11 education, and administer a competitive grant program for
12 school-based, antitobacco education programs and tobacco use
13 intervention and cessation activities in order to reduce the number
14 of pupils who begin to use tobacco, continue to use tobacco, or
15 both. Grants shall be awarded, after consultation with local lead
16 agencies, the committee, and representatives of nonprofit
17 organizations dedicated to the reduction of tobacco-associated
18 disease, to school districts, *charter schools*, and county offices of
19 education for all pupils in grades 6 to 12, inclusive, that comply
20 with the requirements of paragraphs (2) and, if applicable, (3).

21 (2) Every school district, *charter school*, and county office of
22 education that receives a grant pursuant to this section shall provide
23 ~~tobacco-use~~ *tobacco use* prevention instruction that addresses all
24 of the following essential topics:

25 (A) Immediate and long-term undesirable physiologic, cosmetic,
26 and social consequences of tobacco use.

27 (B) Reasons that adolescents say they smoke or use tobacco.

28 (C) Peer norms and social influences that promote tobacco use.

29 (D) Refusal skills for resisting social influences that promote
30 tobacco use.

31 (3) Every school district, *charter school*, and county office of
32 education that receives a grant pursuant to this section for pupils
33 in grades 7 to 12, inclusive, shall provide ~~tobacco-use~~ *tobacco use*
34 intervention and cessation activities targeted for pupils in ~~high-risk~~
35 *high-risk* groups.

36 (4) The State Department of Education shall develop criteria
37 and standards for the allocation of grant awards that consider the
38 need to balance rural, suburban, and urban projects. In addition,
39 the State Department of Education shall give priority to applicants
40 and programs that do all of the following:

1 (A) Target current smokers and pupils most at risk for beginning
2 to use tobacco.

3 (B) Offer or refer pupils to cessation classes for current smokers.

4 (C) Utilize existing antismoking resources, including local
5 antismoking efforts by local lead agencies and competitive grant
6 recipients.

7 (D) Design the project to coordinate with other community
8 services, including, but not limited to, local health agencies,
9 voluntary health organizations, and parent organizations.

10 (E) Design the project to use and develop existing services and
11 resources.

12 (F) Demonstrate an understanding of the role that the
13 environment and community norms play in influencing tobacco
14 use.

15 (5) Available funds shall determine grant award amounts.

16 (I) Allocate funds to county offices of education to provide
17 technical assistance and leadership for tobacco use prevention,
18 intervention, and cessation programs. The funds shall be allocated
19 to all participating county offices of education at a minimum
20 amount of thirty-seven thousand five hundred dollars (\$37,500).
21 If funds appropriated for purposes of allocating at least thirty-seven
22 thousand five hundred dollars (\$37,500) to all participating county
23 offices of education are insufficient, the Superintendent of Public
24 Instruction shall prorate available funds among participating county
25 offices of education ensuring that all participating county offices
26 of education receive an equal minimum level of funding of
27 thirty-seven thousand five hundred dollars (\$37,500). If funds are
28 sufficient to provide all participating county offices of education
29 a minimum of thirty-seven thousand five hundred dollars (\$37,500),
30 the remaining funds shall be allocated according to the following
31 schedule based on average daily attendance in the prior year
32 credited to all elementary, high, and unified school districts, and
33 to the county superintendent of schools within the county as
34 certified by the Superintendent of Public Instruction:

35 (1) For counties with over 550,000 units of average daily
36 attendance, thirty cents (\$0.30) per average daily attendance.

37 (2) For counties with more than 100,000 and less than 550,000
38 units of average daily attendance, sixty-five cents (\$0.65) per
39 average daily attendance.

1 (3) For counties with more than 50,000 and less than 100,000
2 units of average daily attendance, ninety cents (\$0.90) per average
3 daily attendance.

4 (4) For counties with more than 37,500 and less than 50,000
5 units of average daily attendance, one dollar (\$1) per average daily
6 attendance.

7 (5) For counties with less than 37,500 units of average daily
8 attendance, thirty-seven thousand five hundred dollars (\$37,500).

9 (m) Allocate funds appropriated by the act adding this
10 subdivision for local assistance to school districts, *charter schools*,
11 and county offices of education based on average daily attendance
12 reported in the second principal apportionment in the prior fiscal
13 year.

14 (n) (1) Provide that all school districts, *charter schools*, and
15 county offices of education that receive funding under subdivision
16 (m) make reasonable progress toward providing a tobacco-free
17 environment in school facilities for pupils and employees.

18 (2) ~~At~~ Require that all school districts, *charter schools*, and
19 county offices of education that receive funding pursuant to
20 paragraph (1) shall adopt and enforce a tobacco-free campus policy
21 no later than July of each fiscal year. The policy shall prohibit the
22 use of *products containing tobacco products, and nicotine,*
23 *including, but not limited to, smokeless tobacco, snuff, chew, clove*
24 *cigarettes, and nicotine delivery devices, such as electronic*
25 *cigarettes, at any time, in charter school or school district-owned*
26 *or leased buildings, on school or district property property, and in*
27 *school or district vehicles. However, this section does not prohibit*
28 *the use or possession of prescription products, nicotine patches,*
29 *or nicotine gum. Information about the policy and enforcement*
30 *procedures shall be communicated clearly to school personnel,*
31 *parents, pupils, and the larger community. Signs stating “Tobacco*
32 *use is prohibited” shall be prominently displayed at all entrances*
33 *to school property property as provided in Section 104559.*
34 Information about smoking cessation support programs shall be
35 made available and encouraged for pupils and staff. Any school
36 district, *charter school*, or county office of education that does not
37 have a tobacco-free district policy implemented by ~~July 1~~, *July 1*
38 shall not be eligible to apply for funds from the Cigarette and
39 Tobacco Products Surtax Fund for that fiscal year.

1 SEC. 2. Section 104466 of the Health and Safety Code is
2 amended to read:

3 104466. Notwithstanding subdivision (a) of Section 2.00 of
4 the Budget Act of 2002 and any other ~~provision of law,~~
5 commencing with the appropriation for the 2002–03 fiscal year,
6 and for each fiscal year thereafter, any amount appropriated to the
7 department *or the State Department of Education* to implement
8 the following tobacco use prevention programs shall be available
9 for encumbrance and expenditure for three fiscal years beyond the
10 date of the appropriation:

11 (a) The program to evaluate tobacco control programs provided
12 for in subdivisions (b) and (c) of Section 104375.

13 (b) The tobacco use prevention media campaign provided for
14 in subdivision (e) of Section 104375.

15 (c) The competitive grant program provided for in Section
16 104385.

17 (d) The local lead agency tobacco use prevention programs
18 provided for in Section 104400.

19 (e) The tobacco use prevention program directed at schools
20 provided for in Sections 104420, ~~104425~~, 104430, and 104435.

21 SEC. 3. Article 4 (commencing with Section 104559) is added
22 to Chapter 1 of Part 3 of Division 103 of the Health and Safety
23 Code, to read:

24
25 Article 4. Tobacco Use Prohibition

26
27 104559. (a) The use of tobacco and nicotine products is
28 prohibited at any time in a county office of education, charter
29 school or school district-owned or leased buildings, on school or
30 district property, and in school or district vehicles. This includes,
31 but is not limited to, smokeless tobacco, snuff, chew, clove
32 cigarettes, and other nicotine-delivery devices, such as electronic
33 cigarettes.

34 (b) School districts, charter schools, and county offices of
35 education shall prominently display signs at all entrances to school
36 property stating “Tobacco use is prohibited.”

37 SEC. 4. If the Commission on State Mandates determines that
38 this act contains costs mandated by the state, reimbursement to
39 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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SENATE BILL

No. 9

**Introduced by Senator McGuire
(Coauthors: Senators Hernandez, Leno, and Liu)**

July 16, 2015

An act to amend Section 30111 of, and to add Section 7284.8 to, the Revenue and Taxation Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 9, as introduced, McGuire. Local taxes: authorization: cigarettes and tobacco products.

The Cigarette and Tobacco Products Tax Law imposes a tax on every distributor of cigarettes and tobacco products at specified rates. That law specifies that the taxes imposed by that law are in lieu of all other state, county, municipal, or district taxes on the privilege of distributing cigarettes or tobacco products. The California Constitution prohibits the Legislature from imposing taxes for local purposes, but allows the Legislature to authorize local governments to impose them.

This bill would authorize the board of supervisors of a county or city and county to impose a tax on the privilege of distributing cigarettes and tobacco products in the county or city and county, including within an incorporated city within the county.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 7284.8 is added to the Revenue and
- 2 Taxation Code, to read:

1 7284.8. (a) Subject to the limitations of the California
 2 Constitution, a board of supervisors of a county or city and county
 3 may, in accordance with Article 3.7 (commencing with Section
 4 53720) of Chapter 4 of Part 1 of Division 2 of Title 5 of the
 5 Government Code, impose a tax on the privilege of distributing
 6 cigarettes and tobacco products in the county or city and county.
 7 The board of supervisors may impose this tax within an
 8 incorporated city within the county.

9 (b) For purposes of this section:

10 (1) "Cigarette" means a cigarette, as defined in Section 30003.

11 (2) "Tobacco products" means tobacco products, as defined in
 12 subdivision (b) of Section 30121.

13 SEC. 2. Section 30111 of the Revenue and Taxation Code is
 14 amended to read:

15 30111. The taxes imposed by this part are in lieu of all other
 16 state, ~~county~~, municipal, or district taxes on the privilege of
 17 distributing cigarettes or tobacco products.

18 This section does not prohibit the application of Part 1
 19 (commencing with Section 6001), Part 1.5 (commencing with
 20 Section 7200), Part 1.6 (commencing with Section 7251), or Article
 21 2 (commencing with Section 37021) of Part 17 to the sale, storage,
 22 use or other consumption of cigarettes or tobacco products.

O

SBX 2-10 (Beall)
Board of Equalization Tobacco Licensing Fees
Senators Ed Hernandez and Mark Leno (Coauthors)

BACKGROUND

In 2003, California enacted the Cigarette and Tobacco Products Licensing Act (AB 71 [Chapter 890, Statutes 2003]) (Act) which established a statewide licensing program administered by the Board of Equalization (BOE). The Act was established to reduce untaxed distributions and the illegal sale of cigarettes and tobacco products.

The Act imposed a licensing requirement, known as the Cigarette and Tobacco Products Licensing Program, on all retailers, wholesalers, and distributors of cigarettes and tobacco products and all manufacturers and importers of cigarettes. Under the Act, retailers must pay a one-time fee of \$100 for each location a retailer sells cigarettes or tobacco products. The license is valid for one year and must be renewed annually, with no additional charge to renew a license. Distributors and wholesalers pay an annual licensing fee of \$1,000.

In addition to the licensing fee, the BOE also administers and collects excise taxes on each pack of cigarettes and on each dollar of tobacco products. The state levies these taxes on distributors who supply cigarettes and other tobacco products to wholesalers or retailers. A portion of the revenue generated from the excise tax goes to the General Fund, with a majority of the revenue allocated to special funds to support programs such as for childhood development pursuant to Proposition 10, approved by voters in 1998; programs for tobacco education and prevention, tobacco-related disease research, health care for low-income persons, environmental protection, and recreation programs pursuant to Proposition 99, approved by voters in 1988; and breast cancer related research and screening for uninsured women (AB 2055 [Chapter 661, Statutes 1993]).

NEED FOR THE BILL

The current licensing fee structure does not generate the necessary revenue to cover the administrative costs associated with the licensing program. In fact, according to the Legislative Analyst's Office, the licensing fee in the Cigarette and Tobacco Products Licensing Program generated \$18 million for the program in 2003-04, when the program first began. Subsequent revenue from the fee, however, has since been one-tenth of that initial level, with annual expenditures averaging \$7 million more than the annual fee revenue from 2005-06 to 2013-14. The report notes that in 2013-14, it cost approximately \$10 million to run the program while revenue remained stagnant at \$2 million. A subsequent report from the BOE stated that inadequate funding of this program can lead to a lack of field enforcement or a reduction in compliance staff, potentially leading to further decreases in funding.

Further, in 2006, the Legislature approved a budget proposal to begin charging the special funds that receive cigarette and tobacco excise tax revenue for part of the costs of administering the licensing program. While this has helped increase the funding to administer the license program, this change has reduced the resources for programmatic purposes.

THIS BILL

SBX2-10 establishes an annual BOE tobacco licensing fee that is high enough to cover the program's cost, as opposed to the current one-time fee, and reduces the burden on the special funds to pay for the licensing program. Specifically, the bill updates the Cigarette and Tobacco Products Licensing Act by requiring a \$265 annual BOE tobacco licensing fee for cigarette and tobacco retailers, and a \$1,200 annual fee for wholesalers

and distributors. With 37,000 licensed retailers in California, a fee of \$265 would generate roughly \$10 million for the program, making it more closely aligned with the BOE's cost to run the program.

The bill also requires the board to develop a report for the legislature by January 1, 2019, on if the licensing fees established for the Cigarette and Tobacco Products Licensing Act of 2003 are sufficient to maintain an effective enforcement program.

SUPPORT

None on file

OPPOSE

None on file

KEY CONTACTS

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SENATE BILL

No. 10

**Introduced by Senator Beall
(Coauthors: Senators Hernandez and Leno)**

July 16, 2015

An act to amend Sections 22973 and 22977.1 of the Business and Professions Code, relating to cigarette and tobacco product licensing.

LEGISLATIVE COUNSEL'S DIGEST

SB 10, as introduced, Beall. Cigarette and tobacco product licensing: fees and funding.

The Cigarette and Tobacco Products Licensing Act of 2003 requires the State Board of Equalization to administer a statewide program to license manufacturers, importers, distributors, wholesalers, and retailers of cigarettes and tobacco products. That act requires retailers of cigarettes and tobacco products to obtain a separate license for each retail location, to be issued by the board upon receipt of a completed application and payment of a one-time fee, unless specified conditions apply.

This bill would require a fee of \$265 to be submitted with each license application, as described above. The bill would require, for calendar years beginning on and after January 1, 2016, every retailer to file an application for renewal of a retailer's license accompanied with a fee of \$265 per retail location, in the form and manner prescribed by the board.

The Cigarette and Tobacco Products Licensing Act of 2003 requires every wholesaler and distributor who commences business selling or distributing cigarettes or tobacco products, or who commences doing so at a new or different place of business in the state, to apply for a

license accompanied by a required fee of \$1,000 for each location. The act also requires wholesalers and distributors to file an application for a renewal of license accompanied by a required fee of \$1,000 for each location where cigarettes and tobacco products are sold.

The bill would raise the fees described above to \$1,200.

The bill would require the board to report to the Legislature no later than January 1, 2019 regarding the adequacy of funding for the Cigarette and Tobacco Products Licensing Act of 2003, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 22973 of the Business and Professions
2 Code is amended to read:

3 22973. (a) An application for a license shall be filed on or
4 before April 15, 2004, on a form prescribed by the board and shall
5 include the following:

6 (1) The name, address, and telephone number of the applicant.

7 (2) The business name, address, and telephone number of each
8 retail location. For applicants who control more than one retail
9 location, an address for receipt of correspondence or notices from
10 the board, such as a headquarters or corporate office of the retailer,
11 shall also be included on the application and listed on the license.
12 Citations issued to licensees shall be forwarded to all addressees
13 on the license.

14 (3) A statement by the applicant affirming that the applicant
15 has not been convicted of a felony and has not violated and will
16 not violate or cause or permit to be violated any of the provisions
17 of this division or any rule of the board applicable to the applicant
18 or pertaining to the manufacture, sale, or distribution of cigarettes
19 or tobacco products. If the applicant is unable to affirm this
20 statement, the application shall contain a statement by the applicant
21 of the nature of any violation or the reasons that will prevent the
22 applicant from complying with the requirements with respect to
23 the statement.

24 (4) If any other licenses or permits have been issued by the
25 board or the Department of Alcoholic Beverage Control to the
26 applicant, the license or permit number of those licenses or permits
27 then in effect.

1 (5) A statement by the applicant that the contents of the
2 application are complete, true, and correct. Any person who signs
3 a statement pursuant to this subdivision that asserts the truth of
4 any material matter that he or she knows to be false is guilty of a
5 misdemeanor punishable by imprisonment of up to one year in the
6 county jail, or a fine of not more than one thousand dollars
7 (\$1,000), or both the imprisonment and the fine.

8 (6) The signature of the applicant.

9 (7) Any other information the board may require.

10 (b) The board may investigate to determine the truthfulness and
11 completeness of the information provided in the application. The
12 board may issue a license without further investigation to an
13 applicant for a retail location if the applicant holds a valid license
14 from the Department of Alcoholic Beverage Control for that same
15 location.

16 (c) The board shall provide electronic means for applicants to
17 download and submit applications.

18 (d) ~~(1) A one-time license fee of one hundred dollars (\$100)~~
19 ~~two hundred sixty-five dollars (\$265)~~ shall be submitted with each
20 application. An applicant that owns or controls more than one retail
21 location shall obtain a separate license for each retail location, but
22 may submit a single application for those licenses with a one-time
23 ~~an application~~ license fee of ~~one hundred dollars (\$100)~~ *two*
24 *hundred sixty-five dollars (\$265)* per location.

25 ~~(2) The one-time fee required by this subdivision does not apply~~
26 ~~to an application for renewal of a license for a retail location for~~
27 ~~which the one-time license fee has already been paid. If a license~~
28 ~~is reinstated after its expiration, the retailer, as a condition~~
29 ~~precedent to its reinstatement, shall pay a reinstatement fee of one~~
30 ~~hundred dollars (\$100).~~

31 (e) *For calendar years beginning on and after January 1, 2016,*
32 *every retailer shall file an application for renewal of the license*
33 *prescribed in Section 22972, accompanied with a fee of two*
34 *hundred sixty-five dollars (\$265) per retail location in the form*
35 *and manner prescribed by the board.*

36 (f) (1) *The board shall report back to the Legislature no later*
37 *than January 1, 2019, regarding the adequacy of funding for the*
38 *Cigarette and Tobacco Products Licensing Act of 2003. The report*
39 *shall include data and recommendations about whether the annual*

1 *licensing fee funding levels are set at an appropriate level to*
2 *maintain an effective enforcement program.*

3 (2) *The report required by paragraph (1) shall be submitted in*
4 *compliance with Section 9795 of the Government Code.*

5 SEC. 2. Section 22977.1 of the Business and Professions Code
6 is amended to read:

7 22977.1. (a) Every distributor and every wholesaler shall file
8 an application, as prescribed in Section 22977, on or before April
9 15, 2004. Each application shall be accompanied by a fee of one
10 thousand dollars (\$1,000) for each location. The fee shall be for a
11 calendar year and may not be prorated. Subject to meeting the
12 requirements of this section and Section 22977.2, the board shall
13 issue a license.

14 (b) Every distributor and every wholesaler who commences
15 business after the last day of May 2004, or who commences selling
16 or distributing cigarettes or tobacco products at a new or different
17 place of business in this state after the last day of May 2004, shall
18 file with the board an application as prescribed in Section 22977
19 at least 30 days prior to commencing such business or commencing
20 such sales or distributions; and all distributors and all wholesalers
21 that fail to timely file an application for a license under subdivision
22 (a) shall file with the board an application as prescribed in Section
23 22977. Each application shall be accompanied by a fee of one
24 thousand *two hundred* dollars ~~(\$1,000)~~ (\$1,200) for each location.
25 The fee shall be for a calendar year and may not be prorated.
26 Subject to Section 22977.2, the board, within 30 days after receipt
27 of an application and payment of the proper fee shall issue a
28 license.

29 (c) For calendar years beginning on and after January 1, 2005,
30 *and before January 1, 2016*, every distributor and every wholesaler
31 shall file an application for renewal of the license prescribed in
32 Section 22977, accompanied with a fee of one thousand dollars
33 (\$1,000) for each location where cigarettes and tobacco products
34 are sold, in the form and manner as prescribed by the board. *For*
35 *calendar years beginning on and after January 1, 2016, the fee*
36 *accompanying an application for renewal of the license prescribed*
37 *in Section 22977 shall be one thousand two hundred dollars*
38 *(\$1,200) for each location where cigarettes and tobacco products*
39 *are sold.*

1 *(d) (1) The board shall report back to the Legislature no later*
2 *than January 1, 2019, regarding the adequacy of funding for the*
3 *Cigarette and Tobacco Products Licensing Act of 2003. The report*
4 *shall include data and recommendations about whether the annual*
5 *licensing fee funding levels are set at an appropriate level to*
6 *maintain an effective enforcement program.*

7 *(2) The report required by paragraph (1) shall be submitted in*
8 *compliance with Section 9795 of the Government Code.*

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Solano County 2015 Bill Tracking Matrix

Friday, July 31, 2015

BILL ID/Topic	Location	Summary	Solano Position	CSAC Position	LCC Position
AB 13 Chávez R Public postsecondary education: community colleges: exemptions from nonresident tuition.	6/18/2015-S. ED. 6/18/2015-Referred to Com. on ED.	Current law generally requires community college districts to charge a tuition fee to nonresident students, but exempts specified community college students from paying that nonresident tuition fee. This bill would additionally exempt nonresident students living in California and enrolled at a community college, as specified, who are covered individuals, as defined in a specified federal statute, using, or are intending to use, Federal GI Bill education benefits, as specified, to cover the costs associated with enrollment as a community college student. This bill contains other related provisions and other existing laws. Last Amended on 5/28/2015			
AB 18 Dodd D Disaster relief: South Napa Earthquake.	7/13/2015-S. APPR. SUSPENSE FILE 7/13/2015-In committee: Referred to suspense file.	The California Disaster Assistance Act generally provides that the state share for disaster project allocations to local agencies is no more than 75% of total state eligible costs, except for specified events for which the state share is up to 100% of state eligible costs. This bill would add the August 24, 2014, South Napa Earthquake to the list of events for which the state share of state eligible cost is up to 100%. This bill contains other related provisions. Last Amended on 7/7/2015	Sponsor & Support	Support	Watch
AB 45 Mullin D Household hazardous waste.	5/29/2015-A. 2 YEAR 5/29/2015-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/20/2015) Heard	Would require each jurisdiction that provides for the residential collection and disposal of solid waste to increase the collection and diversion of household hazardous waste in its service area, on or before July 1, 2020, by 15% over a baseline amount, to be determined in accordance with Department of Resources Recycling and Recovery regulations. The bill would authorize the department to adopt a model ordinance for a comprehensive program for the collection of household hazardous waste to facilitate compliance with those provisions, and would require each jurisdiction to annually report to the department on progress achieved in complying with those provisions. Last Amended on 4/30/2015	Watch	Oppose	Oppose
AB 50 Mullin D Medi-Cal: evidence-based home visiting programs.	7/9/2015-S. APPR. 7/9/2015-From committee: Do pass and re-refer to Com. on APPR. (Ayes 8. Noes 0.) (July 8). Re-referred to Com. on APPR. Heard 8/17/2015 10 a.m. - John L. Burton Hearing Room 4203 SENATE APPROPRIATIONS, LARA, Chair	Would require the State Department of Health Care Services, in consultation with specified stakeholders, to develop a plan on or before January 1, 2017, to ensure that evidence-based home visiting programs are offered and provided to Medi-Cal eligible pregnant and parenting women, and would require the department, on or before January 1, 2022, and every 5 years thereafter, to report to the Legislature, as specified. This bill contains other existing laws. Last Amended on 5/21/2015	Support	Support in Concept	
AB 171 Irwin D Department of Veterans Affairs: veterans' services.	7/13/2015-S. APPR. SUSPENSE FILE 7/13/2015-In committee: Referred to suspense file. Heard	Would appropriate on an annual basis the sum of \$5,600,000 from the General Fund to the Department of Veterans Affairs to be available for allocation to counties to fund the activities of county veterans service officers, as specified. The bill would specify that the money appropriated would only be available for encumbrance and expenditure for one year. The bill would also delete obsolete provisions and would make conforming changes. This bill contains other related provisions. Last Amended on 5/28/2015	Support	Support	

BILL ID/Topic	Location	Summary	Solano Position	CSAC Position	LCC Position
AB 190 Harper R Solid waste: single-use carryout bags.	4/14/2015-A. NAT. RES. 4/13/2015-In committee: Set, second hearing Failed passage. Reconsideration granted.	Current law, inoperative due to a pending referendum election, would otherwise, as of July 1, 2015, prohibit stores that have a specified amount of sales in dollars or retail floor space from providing a single-use carryout bag to a customer, with specified exceptions. This bill would repeal the above provisions and related provisions. Last Amended on 3/11/2015			
AB 191 Harper R Solid waste: single-use carryout bags.	5/1/2015-A. 2 YEAR 5/1/2015-Failed Deadline pursuant to Rule 61(a)(2). (Last location was NAT. RES. on 4/14/2015)	Current law, inoperative due to a pending referendum election, would, as of July 1, 2015, prohibit stores that have a specified amount of sales in dollars or retail floor space from providing a single-use carryout bag to a customer and prohibit those stores from selling or distributing a recycled paper bag at the point of sale unless the store makes that bag available for purchase for not less than \$0.10. This bill would repeal the requirement that a store that distributes recycled paper bags make those bags available for purchase for not less than \$0.10. This bill contains other related provisions. Last Amended on 3/11/2015			
AB 216 Garcia, Cristina D Product sales to minors: vapor products.	7/14/2015-S. THIRD READING 7/14/2015-Read second time. Ordered to third reading.	Would prohibit the sale of any device intended to deliver a nonnicotine product in a vapor state, to be directly inhaled by the user, to a person under 18 years of age, or to a person under 21 years of age if SB 151 of the 2015-16 Regular Session is enacted and takes effect. The bill would exempt from its prohibition the sale of a drug or medical device that has been approved by the federal Food and Drug Administration. Because this bill would create a new crime or infraction, the bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws. Last Amended on 6/29/2015		Neutral	Watch
AB 901 Gordon D Solid waste: reporting requirements: enforcement.	7/16/2015-S. APPR. 7/16/2015-From committee: Amend, and do pass as amended and re-refer to Com. on APPR. (Ayes 6. Noes 1.) (July 15). Read second time and amended. Re-referred to Com. on APPR. 8/17/2015 10 a.m. - John L. Burton Hearing Room 4203 SENATE APPROPRIATIONS, LARA, Chair	The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, generally regulates the disposal, management, and recycling of solid waste. This bill would revise specified provisions by, among other things, (1) requiring recycling and composting operations and facilities to submit specified information directly to the department, rather than to counties, (2) requiring disposal facility operators to submit tonnage information to the department, and to counties only on request, and (3) deleting the requirement for counties to submit that information to cities, regional agencies, and the department. Last Amended on 7/16/2015			
AB 1300 Ridley-Thomas D Mental health: involuntary commitment.	5/29/2015-A. 2 YEAR 5/29/2015-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/27/2015)	Would authorize counties to designate one or more persons to act as a local or regional liaison to assist a person who is a patient in an emergency department of a defined nondesignated hospital and who has been detained, or who may require detention, for evaluation and treatment, as specified. The bill would reorganize and make changes to the provisions relating to the detention for evaluation and treatment of a person who may be subject to the above provisions, including specifying procedures for delivery of those individuals to various facilities. Last Amended on 5/20/2015	Oppose	Oppose	
AB 1347 Chiu D Public contracts: claims.	7/6/2015-S. APPR. 7/6/2015-Read second time and amended. Re-referred to Com. on APPR. 8/17/2015 10 a.m. - John L. Burton Hearing Room (4203) SENATE APPROPRIATIONS, LARA, Chair	Would establish, for contracts entered into on or after January 1, 2016, a claim resolution process applicable to all claims by contractors in connection with public works. The bill would define a claim as a separate demand by the contractor for one or more of: a time extension for relief from damages or penalties for delay, payment of money or damages arising from work done pursuant to the contract for a public work, or payment of an amount disputed by the public entity, as specified. This bill contains other related provisions and other existing laws. Last Amended 7/6/2015		Neutral	Oppose

BILL ID/Topic	Location	Summary	Position	CSAC Position	LCC Position
ABX1 1 Alejo D Transportation funding.	6/23/2015-A. PRINT 6/24/2015-From printer.	Current law provides for loans of revenues from various transportation funds and accounts to the General Fund, with various repayment dates specified. This bill, with respect to any loans made to the General Fund from specified transportation funds and accounts with a repayment date of January 1, 2019, or later, would require the loans to be repaid by December 31, 2018. This bill contains other related provisions and other current laws.			
ABX1 2 Perea D Transportation projects: comprehensive development lease agreements.	6/25/2015-A. PRINT 6/26/2015-From printer.	Current law authorizes the Department of Transportation and regional transportation agencies, as defined, to enter into comprehensive development lease agreements with public and private entities, or consortia of those entities, for certain transportation projects that may charge certain users of those projects tolls and user fees, subject to various terms and requirements. Current law provides that a lease agreement may not be entered into under these provisions on or after January 1, 2017. This bill would extend this authorization indefinitely and would include within the definition of "regional transportation agency" the Santa Clara Valley Transportation Authority, thereby authorizing the authority to enter into public-private partnerships under these provisions.			
ABX1 3 Frazier D Transportation funding.	7/9/2015-A. PRINT 7/10/2015-From printer.	Current law requires the Department of Transportation to improve and maintain the state's highways, and establishes various programs to fund the development, construction, and repair of local roads, bridges, and other critical transportation infrastructure in the state. This bill would declare the intent of the Legislature to enact legislation to establish permanent, sustainable sources of transportation funding to maintain and repair the state's highways, local roads, bridges, and other critical infrastructure.			
ABX1 4 Frazier D Transportation funding.	7/9/2015-A. PRINT 7/10/2015-From printer.	Current law establishes various programs to fund the development, construction, and repair of local roads, bridges, and other critical transportation infrastructure in the state. This bill would declare the intent of the Legislature to enact legislation to establish permanent, sustainable sources of transportation funding to improve the state's key trade corridors and support efforts by local governments to repair and improve local transportation infrastructure.			
ABX1 5 Hernández, Roger D Income taxes: credits: low-income housing: farmworker housing assistance.	7/16/2015-A. PRINT 7/17/2015-From printer.	Would, under the insurance taxation law, the Personal Income Tax Law, and the Corporation Tax Law, modify the definition of applicable percentage relating to qualified low-income buildings that are farmworker housing projects, as provided. The bill would authorize the California Tax Credit Allocation Committee to allocate that credit even if the taxpayer receives specified federal and state credits or only state credits. The bill would increase the amount the committee may allocate to farmworker housing projects from \$500,000 to \$25,000,000 per year.			
ABX1 6 Hernández, Roger D Affordable Housing and Sustainable Communities Program.	7/16/2015-A. PRINT 7/17/2015-From printer.	Current law continuously appropriates 20% of the annual proceeds of the Greenhouse Gas Reduction Fund to the Affordable Housing and Sustainable Communities Program, administered by the Strategic Growth Council, to reduce greenhouse gas emissions through projects that implement land use, housing, transportation, and agricultural land preservation practices to support infill and compact development and that support other related and coordinated public policy objectives. This bill would require 20% of moneys available for allocation under the program to be allocated to eligible projects in rural areas, as defined.			

BILL ID/Topic	Location	Summary	Solano Position	CSAC Position	LCC Position
ABX1 7 Nazarian D Public transit: funding.	7/16/2015-A. PRINT 7/17/2015-From printer.	Current law requires all moneys, except for fines and penalties, collected by the State Air Resources Board from the auction or sale of allowances as part of a market-based compliance mechanism relative to reduction of greenhouse gas emissions to be deposited in the Greenhouse Gas Reduction Fund. This bill would instead continuously appropriate 20% of those annual proceeds to the Transit and Intercity Rail Capital Program, and 10% of those annual proceeds to the Low Carbon Transit Operations Program, thereby making an appropriation. This bill contains other current laws.			
ABX1 8 Chiu D Diesel sales and use tax.	7/16/2015-A. PRINT 7/17/2015-From printer.	Would, effective July 1, 2016, increase the additional sales and use tax rate on diesel fuel to 5.25%. By increasing the revenues deposited in a continuously appropriated fund, the bill would thereby make an appropriation. This bill contains other related provisions.			
ABX2 1 Bonta D Medi-Cal: developmental services: funding.	7/2/2015-A. PRINT 7/6/2015-From printer.	Current law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. This bill would state the intent of the Legislature to enact legislation establishing funding sources and mechanisms in order to provide additional support for, and access to, Medi-Cal and developmental services. This bill contains other current laws.			
ABX2 2 Bonta D Medi-Cal and developmental services: funding: rates.	7/2/2015-A. PRINT 7/6/2015-From printer.	Would state the intent of the Legislature to enact legislation to stabilize funding for the Medi-Cal program and to provide rate increases for Medi-Cal and developmental services providers. This bill contains other existing laws.			
ABX2 3 Chu D Developmental services: provider rates: minimum wage.	7/16/2015-A. PRINT 7/17/2015-From printer.	Would authorize an adjustment in prescribed provider rates as necessary to adjust employee wages to meet the state minimum wage law. This bill contains other existing laws.			
ABX2 4 Levine D Managed care organization provider tax.	7/16/2015-A. PRINT 7/17/2015-From printer.	Would repeal the support services sales tax and would establish a new managed care organization provider tax, to be administered by the State Department of Health Care Services in consultation with the Department of Managed Health Care. The tax would be assessed by the department on licensed health care service plans and managed care plans contracted with the department to provide Medi-Cal services, except as excluded by the bill.			
ABX2 5 Santiago D Developmental services: regional center contracts.	7/16/2015-A. PRINT 7/17/2015-From printer.	Would require all regional center contracts or agreements with contracting entities that provide in-home respite services and that have an annual revenue attributable to in-home respite services provided to regional center consumers of at least \$7,000,000, as specified, to expressly require that at least 85% of regional center funds be spent on direct service expenditures, as defined. This bill contains other existing laws.			

BILL ID/Topic	Location	Summary	Solano Position	CSAC Position	LCC Position
ABX2 6 Cooper D Electronic cigarettes.	7/16/2015-A. PRINT 7/17/2015-From printer.	Would define the term "smoking" for purposes of the STAKE Act. The bill would also change the STAKE Act's definition of "tobacco products" to include electronic devices, such as electronic cigarettes, that deliver nicotine or other vaporized liquids, and make furnishing such a tobacco product to a minor a misdemeanor. This bill contains other related provisions and other existing laws.			
ABX2 7 Stone, Mark D Smoking in the workplace.	7/16/2015-A. PRINT 7/17/2015-From printer.	Current law prohibits smoking of tobacco products inside an enclosed space, as defined, at a place of employment. The violation of the prohibition against smoking in enclosed spaces of places of employment is an infraction punishable by a specified fine. This bill would expand the prohibition on smoking in a place of employment to include an owner-operated business, as defined. This bill contains other related provisions and other current laws.			
ABX2 8 Wood D Tobacco products: minimum legal age.	7/16/2015-A. PRINT 7/17/2015-From printer.	Current law requires the State Department of Public Health to conduct random, onsite sting inspections of tobacco product retailers with the assistance of persons under 18 years of age. This bill would extend the applicability of those provisions to persons under 21 years of age. The bill would authorize the State Department of Public Health to conduct random, onsite sting inspections of tobacco product retailers with the assistance of persons under 21 years of age.			
ABX2 9 Thurmond D Tobacco use programs.	7/16/2015-A. PRINT 7/17/2015-From printer.	Would expand eligibility for funding for the tobacco use prevention program to include charter schools. The bill would require the State Department of Education to require that all school districts, charter schools, and county offices of education receiving funding under the program adopt and enforce a tobacco-free campus policy prohibiting the use of products containing tobacco and nicotine, as specified.			
ABX2 10 Bloom D Local taxes: authorization: cigarettes and tobacco products.	7/16/2015-A. PRINT 7/17/2015-From printer.	Would authorize the board of supervisors of a county or city and county to impose a tax on the privilege of distributing cigarettes and tobacco products in the county or city and county, including within an incorporated city within the county.			
ABX2 11 Nazarian D Cigarette and tobacco product licensing: fees and funding.	7/16/2015-A. PRINT 7/17/2015-From printer.	The Cigarette and Tobacco Products Licensing Act of 2003 requires retailers of cigarettes and tobacco products to obtain a separate license for each retail location from the State Board of Equalization, which is issued upon receipt of a completed application and payment of a one-time fee, unless specified conditions apply. This bill would require a fee of \$265 to be submitted with each license application, as described above.			
ACA 4 Frazier D Local government transportation projects: special taxes: voter approval.	7/16/2015-A. APPR. 7/16/2015-From committee chair, with author's amendments: Amend, and re-refer to Com. on APPR. Read second time and amended.	Would provide that the imposition, extension, or increase of a sales and use tax imposed pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or a transactions and use tax imposed in accordance with the Transactions and Use Tax Law by a local government for the purpose of providing funding for local transportation projects, as defined, requires the approval of 55% of its voters voting on the proposition. The measure would also make conforming and technical, nonsubstantive changes. Last Amended on 7/16/2015	Support	Support	Support
AJR 4 Dodd D Berryessa Snow Mountain National Monument.	4/9/2015-A. CHAPTERED 4/9/2015-Chaptered by Secretary of State - Chapter No. 19	This measure would urge the President of the United States and the Secretary of the United States Department of Interior to designate the area known as the Berryessa Snow Mountain region as the Berryessa Snow Mountain National Monument. Last Amended on 2/3/2015	Support		

BILL ID/Topic	Location	Summary	Solano Position	CSAC Position	LCC Position
SB 8 Hertzberg D Taxation.	5/15/2015-S. 2 YEAR 5/15/2015-Failed Deadline pursuant to Rule 61(a)(3). (Last location was G. & F. on 2/19/2015)	Would state legislative findings regarding the Upward Mobility Act, key provisions of which would expand the application of the Sales and Use Tax law by imposing a tax on specified services, would enhance the state's business climate , would incentivize entrepreneurship and business creation by evaluating the corporate tax, and would examine the impacts of a lower and simpler personal income tax. This bill contains other related provisions. Last Amended on 2/10/2015			
SB 12 Beall D Foster youth.	7/14/2015-A. APPR. 7/14/2015-From committee: Do pass and re-refer to Com. on APPR. (Ayes 10. Noes 0.) (July 14). Re-referred to Com. on APPR. Heard	Would revise the definition of a nonminor dependent and former nonminor dependent to include a person who has not attained 21 years of age, if he or she was adjudged a ward of the court on the basis of criminal activity, was subject to an order for foster care placement at the time the petition to adjudge him or her a ward of the court was filed, and was held in secure confinement when he or she attained 18 years of age. This bill would make conforming changes to allow a court to assume or resume dependency jurisdiction or transition jurisdiction over a nonminor who satisfies this criteria. Last Amended on 6/2/2015	Watch	Pending	
SB 23 Mitchell D CalWORKs: eligibility.	7/15/2015-A. APPR. 7/15/2015-From committee: Do pass and re-refer to Com. on APPR. (Ayes 5. Noes 2.) (July 14). Re-referred to Com. on APPR. Heard	Under current law, for purposes of determining a family's maximum aid payment under the CalWORKs program, the number of needy persons in the same family is not increased for any child born into a family that has received aid under the CalWORKs program continuously for the 10 months prior to the birth of the child, with specified exceptions. This bill would repeal that exclusion for purposes of determining the family's maximum aid payment and would expressly prohibit the denial of aid, or the denial of an increase in the maximum aid payment, if a child, on whose behalf aid or an increase in aid is being requested, was born into an applicant's or recipient's family while the applicant's or recipient's family was receiving aid under the CalWORKs program.	Support	Pending	
SB 24 Hill D Electronic cigarettes: licensing and restrictions.	6/8/2015-S. INACTIVE FILE 6/8/2015-Ordered to inactive file on request of Senator Hill. Heard	Would make the failure to post a notice, on and after July 1, 2016, at each point of purchase, stating that the sale of electronic cigarettes to persons under 18 years of age is illegal, a crime. The bill would impose the same notice requirements as applied to the sale of electronic cig arettes to persons under 21 years of age if SB 151 of the 2015-16 Regular Session is enacted and takes effect. By expanding the scope of existing crimes, the bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws. Last Amended on 6/1/2015	Oppose	Pending	Watch
SB 35 Wolk D Income and corporation taxes: deductions: disaster relief.	7/16/2015-S. CONCURRENCE 7/16/2015-In Senate. Concurrence in Assembly amendments pending.	The Personal Income Tax Law and the Corporation Tax Law allow a taxpayer to elect to deduct specified disaster losses on the return for the taxable year preceding the taxable year in which the disaster occurred, filed by a specified date. This bill would provide that any law that suspends, defers, reduces, or otherwise diminishes the deduction of a net operating loss, other than those variations already imposed in existing law, shall not apply to a net operating loss attributable to these specified disaster losses. This bill contains other related provisions. Last Amended on 6/16/2015	Support		
SB 111 Fuller R School facilities: military installations.	7/8/2015-A. APPR. SUSPENSE FILE 7/8/2015-July 8 set for first hearing. Placed on APPR. suspense file. Heard	Would express the intent of the Legislature that assistance be provided to school districts in the 2015-16 fiscal year to meet the matching share requirement of a school construction grant made by the Office of Economic Adjustment of the federal Department of Defense to construct, renovate, repair, or expand elementary and secondary public schools located on military installations. Last Amended on 6/2/2015	Support		

BILL ID/Topic	Location	Summary	Solano Position	CSAC Position	LCC Position
SB 140 Leno D Electronic cigarettes.	7/17/2015-A. 2 YEAR 7/17/2015-Failed Deadline pursuant to Rule 61(a)(10). (Last location was G.O. on 7/8/2015) Heard	Would define the term "smoking" for purposes of the STAKE Act. The bill would also change the STAKE Act's definition of tobacco products to include electronic devices, such as electronic cigarettes, that deliver nicotine or other vaporized liquids, and make furnishing such a tobacco product to a minor a misdemeanor. This bill contains other related provisions and other existing laws. Last Amended on 6/1/2015	Support	Pending	Support
SB 151 Hernandez D Tobacco products: minimum legal age.	7/17/2015-A. 2 YEAR 7/17/2015-Failed Deadline pursuant to Rule 61(a)(10). (Last location was G.O. on 6/18/2015)(CORRECTED) Heard	Existing law prohibits the furnishing of tobacco products to, and the purchase of tobacco products by, a person under 18 years of age. This bill would extend the applicability of those provisions to persons under 21 years of age. This bill contains other related provisions.	Support	Watch	Watch
SB 234 Wolk D Wildlife management areas: payments.	5/28/2015-S. APPR. 5/28/2015-May 28 hearing: Held in committee and under submission. Heard	Current law requires the Department of Fish and Wildlife, when income is derived directly from real property acquired and operated by the state as a wildlife management area, as defined, to pay annually to the county in which the property is located an amount equal to the county taxes levied upon the property at the time title to the property was transferred to the state, and any assessments levied upon the property by any irrigation, drainage, or reclamation district. This bill would appropriate \$19,000,000 from the General Fund to the department to make payments to counties for unpaid amounts under these provisions.	Support		
SB 260 Monning D Medi-Cal: county organized health systems: pilot programs.	7/14/2015-A. APPR. 7/14/2015-Read second time and amended. Re-referred to Com. on APPR. Agenda	Current law provides the California Medical Assistance Commission with the authority to negotiate exclusive contracts with county organized health systems to provide health care services under the Medi-Cal program. Under current law, the contracting counties are exempt from Knox-Keene for purposes of carrying out those contracts. This bill would repeal that exemption and delete related exemptions, deem a county contracting with the department under the provisions described above to be a health care service plan as of specified dates, and subject contracting counties to the act for purposes of carrying out those contracts, unless the act expressly provides otherwise. Last Amended on 7/14/2015			
SB 277 Pan D Public health: vaccinations.	6/30/2015-S. CHAPTERED 6/30/2015-Chaptered by Secretary of State - Chapter No. 35 Heard	Would eliminate the exemption from current specified immunization requirements based upon personal beliefs, but would allow exemption from future immunization requirements deemed appropriate by the State Department of Public Health for either medical reasons or personal beliefs. Last Amended on 6/18/2015	Support	Support	
SB 331 Mendoza D Public contracts: local agencies: negotiations.	7/13/2015-A. APPR. 7/15/2015-July 15 hearing postponed by committee.	Would enact the Civic Reporting Openness in Negotiations Efficiency Act to establish specific procedures for the negotiation and approval of certain contracts valued at \$250,000 or more for goods or services by cities, counties, cities and counties, or special districts that have adopted a civic openness in negotiations ordinance, or COIN ordinance, defined as an ordinance imposing specified requirements as part of any collective bargaining process undertaken pursuant to the Meyers-Milias-Brown Act. Last Amended on 7/13/2015			Oppose

BILL ID/Topic	Location	Summary	Solano Position	CSAC Position	LCC Position
SB 591 Pan D Cigarette and tobacco products taxes: California Tobacco Tax Act of 2015.	6/10/2015-S. INACTIVE FILE 6/10/2015-Ordered to inactive file on request of Senator Pan. Heard	Would, beginning January 1, 2016, impose an additional tax on the distribution of cigarettes at the rate of \$0.10 for each cigarette distributed, which would be \$2.00 per pack; would require a dealer and a wholesaler to file a return with the State Board of Equalization showing the number of cigarettes in its possession or under its control on that date, and impose a related floor stock tax; and would require a licensed cigarette distributor to file a return with the board and pay a cigarette indicia adjustment tax at the rate equal to the difference between the existing tax rate and the tax rate imposed by this bill for cigarette tax stamps in its possession or under its control on that date. Last Amended on 6/2/2015	Watch	Watch	Watch
SB 762 Wolk D Competitive bidding: best value: pilot program: design-build.	7/16/2015-A. APPR. 7/16/2015-Read second time and amended. Re-referred to Com. on APPR. Heard	Would establish a pilot program to allow counties to select the lowest responsible bidder on the basis of best value, as defined, for construction projects in excess of \$1,000,000. The bill would establish procedures and criteria for the selection of a best value contractor. The bill would require that bidders verify specified information under oath, thereby imposing a state-mandated local program by creating a new crime. Last Amended on 7/16/2015	Sponsor & Support	Support	Watch
SBX1 1 Beall D Transportation funding.	7/14/2015-S. T. & I.D. 7/14/2015-From committee with author's amendments. Read second time and amended. Re-referred to Com. on T. & I.D.	Would create the Road Maintenance and Rehabilitation Program to address deferred maintenance on the state highway system and the local street and road system. The bill would require the California Transportation Commission to adopt performance criteria to ensure efficient use of the funds available for the program. This bill contains other related provisions and other existing laws. Last Amended on 7/14/2015			
SBX1 2 Huff R Greenhouse Gas Reduction Fund.	6/30/2015-S. T. & I.D. 7/1/2015-From printer.	Would provide that those annual proceeds shall be appropriated by the Legislature for transportation infrastructure, including public streets and highways, but excluding high-speed rail. This bill contains other existing laws.			
SBX1 3 Vidak R Transportation bonds: highway, street, and road projects.	7/1/2015-S. T. & I.D. 7/2/2015-From printer.	Would provide that no further bonds shall be sold for high-speed rail purposes pursuant to the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century, except as specifically provided with respect to an existing appropriation for high-speed rail purposes for early improvement projects in the Phase 1 blended system. The bill, subject to the above exception, would require redirection of the unspent proceeds from outstanding bonds issued and sold for other high-speed rail purposes prior to the effective date of these provisions, upon appropriation, for use in retiring the debt incurred from the issuance and sale of those outstanding bonds.			
SBX1 4 Beall D Transportation funding.	7/8/2015-S. THIRD READING 7/8/2015-From printer. Read second time. Ordered to third reading.	Current law requires the Department of Transportation to improve and maintain the state's highways, and establishes various programs to fund the development, construction, and repair of local roads, bridges, and other critical transportation infrastructure in the state. This bill would declare the intent of the Legislature to enact legislation to establish permanent, sustainable sources of transportation funding to maintain and repair the state's highways, local roads, bridges, and other critical transportation infrastructure.			
SBX1 5 Beall D Transportation funding.	7/8/2015-S. THIRD READING 7/8/2015-From printer. Read second time. Ordered to third reading.	Current law establishes various programs to fund the development, construction, and repair of local roads, bridges, and other critical transportation infrastructure in the state. This bill would declare the intent of the Legislature to enact legislation to establish permanent, sustainable sources of transportation funding to improve the state's key trade corridors and support efforts by local governments to repair and improve local transportation infrastructure.			

BILL ID/Topic	Location	Summary	Solano Position	CSAC Position	LCC Position
SBX1 6 Runner R Greenhouse Gas Reduction Fund: transportation expenditures.	7/13/2015-S. T. & I.D. 7/14/2015-From printer.	Would delete the continuous appropriations from the Greenhouse Gas Reduction Fund for the high-speed rail project, and would prohibit any of the proceeds from the fund from being used for that project. The bill would continuously appropriate the remaining 65% of annual proceeds of the fund to the California Transportation Commission for allocation to high-priority transportation projects, as determined by the commission, with 40% of those moneys to be allocated to state highway projects, 40% to local street and road projects divided equally between cities and counties, and 20% to public transit projects.			
SBX1 7 Allen D Diesel sales and use tax.	7/16/2015-S. PRINT 7/16/2015-Introduced. Read first time. Referred to Com. on T. & I.D. To print.	Would, as of July 1, 2016, increase the additional sales and use tax rate on diesel fuel to 5.25%. By increasing the revenues deposited in a continuously appropriated fund, the bill would thereby make an appropriation. This bill contains other related provisions.			
SBX1 8 Hill D Public transit: funding.	7/16/2015-S. PRINT 7/16/2015-Introduced. Read first time. Referred to Com. on T. & I.D. To print.	Current law requires all moneys, except for fines and penalties, collected by the State Air Resources Board from the auction or sale of allowances as part of a market-based compliance mechanism relative to reduction of greenhouse gas emissions to be deposited in the Greenhouse Gas Reduction Fund. This bill would instead continuously appropriate 20% of those annual proceeds to the Transit and Intercity Rail Capital Program, and 10% of those annual proceeds to the Low Carbon Transit Operations Program, thereby making an appropriation.			
SBX1 9 Moorlach R Department of Transportation.	7/16/2015-S. PRINT 7/16/2015-Introduced. Read first time. Referred to Com. on T. & I.D. To print.	Current law creates the Department of Transportation with various powers and duties relative to the state highway system and other transportation programs. This bill would prohibit the department from using any nonrecurring funds, including, but not limited to, loan repayments, bond funds, or grant funds, to pay the salaries or benefits of any permanent civil service position within the department. This bill contains other related provisions and other current laws.			
SBX1 10 Bates R Regional transportation capital improvement funds.	7/16/2015-S. PRINT 7/16/2015-Introduced. Read first time. Referred to Com. on T. & I.D. To print.	Current law requires funds available for regional projects to be programmed by the California Transportation Commission pursuant to the county shares formula, under which a certain amount of funding is available for programming in each county, based on population and miles of state highway. Current law specifies the various types of projects that may be funded with the regional share of funds to include state highways, local roads, transit, and others. This bill would revise the process for programming and allocating the 75% share of state and federal funds available for regional transportation improvement projects.			
SBX1 11 Berryhill R California Environmental Quality Act: exemption: roadway improvement.	7/16/2015-S. PRINT 7/16/2015-Introduced. Read first time. Referred to Com. on T. & I.D. To print.	CEQA, until January 1, 2016, exempts a project or an activity to repair, maintain, or make minor alterations to an existing roadway, as defined, other than a state roadway, if the project or activity is carried out by a city or county with a population of less than 100,000 persons to improve public safety and meets other specified requirements. This bill would extend the above-referenced exemption until January 1, 2025, and delete the limitation of the exemption to projects or activities in cities and counties with a population of less than 100,000 persons.			
SBX1 12 Runner R California Transportation Commission.	7/16/2015-S. PRINT 7/16/2015-Introduced. Read first time. Referred to Com. on T. & I.D. To print.	Would exclude the California Transportation Commission from the Transportation Agency, establish it as an entity in state government, and require it to act in an independent oversight role. The bill would also make conforming changes. This bill contains other related provisions and other existing laws.			

BILL ID/Topic	Location	Summary	Solano Position	CSAC Position	LCC Position
SBX1 13 Vidak R Office of the Transportation Inspector General.	7/16/2015-S. PRINT 7/16/2015-Introduced. Read first time. Referred to Com. on T. & I.D. To print.	Would create the Office of the Transportation Inspector General in state government as an independent office that would not be a subdivision of any other government entity, to ensure that all state agencies expending state transportation funds are operating efficiently, effectively, and in compliance with federal and state laws. The bill would provide for the Governor to appoint the Transportation Inspector General for a 6-year term, subject to confirmation by the Senate, and would provide that the Transportation Inspector General may not be removed from office during the term except for good cause.			
SBX1 14 Cannella R Transportation projects: comprehensive development lease agreements.	7/16/2015-S. PRINT 7/16/2015-Introduced. Read first time. Referred to Com. on T. & I.D. To print.	Current law authorizes the Department of Transportation and regional transportation agencies, as defined, to enter into comprehensive development lease agreements with public and private entities, or consortia of those entities, for certain transportation projects that may charge certain users of those projects tolls and user fees, subject to various terms and requirements. This bill would extend this authorization indefinitely and would include within the definition of "regional transportation agency" the Santa Clara Valley Transportation Authority, thereby authorizing the authority to enter into public-private partnerships under these provisions.			
SBX2 1 Beall D Developmental services: funding.	7/2/2015-S. PRINT 7/6/2015-From printer.	The annual budget appropriates funds to the State Department of Developmental Services to fund regional center operations. This bill would require the department, subject to an appropriation by the Legislature for these purposes, to increase the funding paid to a regional center for the regional center's operating budget by 10%, and to increase funding to enable the regional center and the regional center's purchase-of-service vendors to fund certain costs related to minimum wage requirements.			
SBX2 2 Hernandez D Medi-Cal: developmental services: provider rate increases.	7/7/2015-S. THIRD READING 7/7/2015-From printer. Read second time. Ordered to third reading.	Current law establishes the Medi-Cal program, which is administered by the State Department of Health Care Services, and under which qualified, low-income individuals receive health care services. Current law provides for the reimbursement of providers under the Medi-Cal program. The bill would declare the intent of the Legislature to enact legislation that would stabilize funding for the Medi-Cal program and provide rate increases for providers of Medi-Cal and developmental services. This bill contains other current laws.			
SBX2 3 Hernandez D Medi-Cal: developmental services: funding: access.	7/7/2015-S. THIRD READING 7/7/2015-From printer. Read second time. Ordered to third reading.	Current law establishes the Medi-Cal program, which is administered by the State Department of Health Care Services, and under which qualified, low-income individuals receive health care services. This bill would declare the intent of the Legislature that would enact legislation to establish funding sources and mechanisms to provide additional support and access to services for the state's Medi-Cal and developmental services programs. This bill contains other laws.			
SBX2 4 Nielsen R Developmental services: Medi-Cal: rate increases.	7/16/2015-S. PRINT 7/16/2015-Introduced. Read first time. Referred to Com. on P.H. & D.S. To print.	Would, to the extent that General Fund revenues for the 2014-15 fiscal year exceed the revenues estimated for that fiscal year in the Budget Act of 2015 and that General Fund revenues for the 2015-16 fiscal year are expected to exceed the revenues estimated for that fiscal year in the Budget Act of 2015, appropriate certain sums to the State Department of Developmental Services to increase rates for certain developmental service providers and to increase regional center operating budgets, and appropriate certain sums to the State Department of Health Care Services for the purpose of increasing Medi-Cal provider rates for providers whose rates were reduced.			

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SBX2 5 Leno D Electronic cigarettes.	7/16/2015-S. PRINT 7/16/2015-Introduced. Read first time. Referred to Com. on P.H. & D.S. To print. Agenda	Would define the term "smoking" for purposes of the STAKE Act. The bill would also change the STAKE Act's definition of "tobacco products" to include electronic devices, such as electronic cigarettes, that deliver nicotine or other vaporized liquids, and make furnishing such a tobacco product to a minor a misdemeanor. This bill contains other related provisions and other existing laws.			
SBX2 7 Hernandez D Tobacco products: minimum legal age.	7/16/2015-S. PRINT 7/16/2015-Introduced. Read first time. Referred to Com. on P.H. & D.S. To print. Agenda	Current law requires the State Department of Public Health to conduct random, onsite sting inspections of tobacco product retailers with the assistance of persons under 18 years of age. This bill would extend the applicability of those provisions to persons under 21 years of age. The bill would authorize the State Department of Public Health to conduct random, onsite sting inspections of tobacco product retailers with the assistance of persons under 21 years of age.			
SBX2 8 Liu D Tobacco use programs.	7/16/2015-S. PRINT 7/16/2015-Introduced. Read first time. Referred to Com. on P.H. & D.S. To print. Agenda	Would expand eligibility for funding for the tobacco use prevention program to include charter schools. The bill would require the State Department of Education to require that all school districts, charter schools, and county offices of education receiving funding under the program adopt and enforce a tobacco-free campus policy prohibiting the use of products containing tobacco and nicotine, as specified. This bill contains other related provisions and other existing laws.			
SBX2 9 McGuire D Local taxes: authorization: cigarettes and tobacco products.	7/16/2015-S. PRINT 7/16/2015-Introduced. Read first time. Referred to Com. on P.H. & D.S. To print. Agenda	Would authorize the board of supervisors of a county or city and county to impose a tax on the privilege of distributing cigarettes and tobacco products in the county or city and county, including within an incorporated city within the county.			
SBX2 10 Beall D Cigarette and tobacco product licensing: fees and funding.	7/16/2015-S. PRINT 7/16/2015-Introduced. Read first time. Referred to Com. on P.H. & D.S. To print. Agenda	The Cigarette and Tobacco Products Licensing Act of 2003 requires the State Board of Equalization to administer a statewide program to license manufacturers, importers, distributors, wholesalers, and retailers of cigarettes and tobacco products. That act requires retailers of cigarettes and tobacco products to obtain a separate license for each retail location, to be issued by the board upon receipt of a completed application and payment of a one-time fee, unless specified conditions apply. This bill would require a fee of \$265 to be submitted with each license application, as described above			
SBX2 11 Stone R Developmental services: developmental center closures.	7/16/2015-S. PRINT 7/16/2015-Introduced. Read first time. Referred to Com. on P.H. & D.S. To print.	Would require the Department of Finance, upon the closure of the Sonoma Developmental Center, Fairview Developmental Center, or the nonsecured portion of the Porterville Developmental Center, to deposit the net savings from the closure of each center, as defined, into the Lanterman Act Community-Based Services Fund, s newly created fund. The bill would make the moneys in the fund available to the department, upon appropriation, to be used to supplement existing purchase-of-service funds used by regional centers to purchase services and supports for persons with developmental disabilities.			
SCAX1 1 Huff R Motor vehicle fees and taxes: restriction on expenditures.	7/8/2015-S. T. & I.D. 7/8/2015-Re-referred to Com. on T. & I.D.	Would prohibit the Legislature from borrowing revenues from fees and taxes imposed by the state on vehicles or their use or operation, and from using those revenues other than as specifically permitted by Article XIX. The measure would also prohibit those revenues from being pledged or used for the payment of principal and interest on bonds or other indebtedness. This bill contains other related provisions and other existing laws.			

Total Measures: 72