

AMENDED IN ASSEMBLY MARCH 31, 2016

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CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1594

Introduced by Assembly Member McCarty
(Coauthor: Senator Leno)

January 6, 2016

An act to ~~amend, repeal,~~ *repeal* and add Section 7597.1 of the Government Code, relating to public postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

AB 1594, as amended, McCarty. Public postsecondary education: prohibition of using tobacco and smoking on campuses.

(1) Existing law establishes the University of California, under the administration of the Regents of the University of California; the California State University, under the administration of the Trustees of the California State University; and the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as the segments of public postsecondary education in this state.

Existing law prohibits public employees or members of the public from smoking any tobacco product inside a public building or in a nearby outdoor area, as specified. Existing law also provides that the governing bodies of the California State University and each community college district have the authority to set enforcement standards relating to smoking on their campuses and to enforce these requirements by citation and fine, as specified. Existing law also authorizes the Trustees of the California State University to establish rules and regulations for

the government and maintenance of the buildings and grounds of the university, and provides that a violation or attempted violation of these rules and regulations is a misdemeanor.

This bill ~~would~~ *would, beginning January 1, 2018*, prohibit smoking and the use of a tobacco product, including, but not limited to, an e-cigarette, on a campus of the California State University or the California Community Colleges. The bill would authorize the governing bodies of the California State University and each community college district to set standards for the enforcement of that prohibition. *The bill would authorize the campuses to conduct a positive educational campaign to increase the awareness of a tobacco- and smoke-free policy.* The bill would authorize the enforcement of this prohibition by a fine, not to exceed \$100, as specified. The bill would require the proceeds of the fine to be ~~allocated, upon appropriation,~~ *allocated* for purposes including support of the educational operations of the campus on which the violation occurs, education about and promotion of the policy implemented by the bill, and tobacco use cessation treatment options for students of that campus.

To the extent that these provisions would impose new duties on community college districts, and extend the scope of activities on the buildings and grounds of the California State University that could be charged as misdemeanors, they would constitute a state-mandated local program.

This bill would encourage the Regents of the University of California to adopt and enforce new, or continue to enforce existing, policies substantially similar to those described above.

~~This bill would make these provisions operative on January 1, 2018.~~

(2) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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 7597.1 of the Government Code is~~
2 ~~amended to read:~~

3 ~~7597.1. (a) The governing bodies of the California State~~
4 ~~University, the University of California, and each community~~
5 ~~college district have the authority to:~~

6 ~~(1) Set enforcement standards for their local campuses.~~

7 ~~(2) Impose a fine for a first, second, and third offense and for~~
8 ~~each subsequent offense. The amount of fines is to be determined~~
9 ~~by the local governing body. Funds shall be allocated to include,~~
10 ~~but not be limited to, the designated enforcement agency, education~~
11 ~~and promotion of the policy, and tobacco cessation treatment~~
12 ~~options. The civil penalty shall not exceed one hundred dollars~~
13 ~~(\$100).~~

14 ~~(b) If a campus adopts the enforcement and fine measures in~~
15 ~~subdivision (a), it shall, and the campuses of the University of~~
16 ~~California may, post signs stating their tobacco use policy on~~
17 ~~campus, as follows:~~

18 ~~(1) The locations at which smoking or tobacco use is prohibited~~
19 ~~on campus.~~

20 ~~(2) The locations at which smoking or tobacco use is permitted~~
21 ~~on campus.~~

22 ~~(c) If a campus adopts the enforcement and fine measure in~~
23 ~~subdivision (a), it shall, and a campus of the University of~~
24 ~~California may, inform employees and students of the tobacco use~~
25 ~~policy and enforcement measures employed on their campus.~~

26 ~~(d) This section shall remain in effect only until January 1, 2018,~~
27 ~~and as of that date is repealed, unless a later enacted statute that~~
28 ~~is enacted before January 1, 2018, deletes or extends that date.~~

29 ~~SECTION 1. Section 7597.1 of the Government Code is~~
30 ~~repealed.~~

31 ~~7597.1. (a) The governing bodies of the California State~~
32 ~~University, the University of California, and each community~~
33 ~~college district have the authority to:~~

34 ~~(1) Set enforcement standards for their local campuses.~~

35 ~~(2) Impose a fine for a first, second, and third offense and for~~
36 ~~each subsequent offense. The amount of fines is to be determined~~
37 ~~by the local governing body. Funds shall be allocated to include,~~
38 ~~but not be limited to, the designated enforcement agency, education~~

1 and promotion of the policy, and tobacco cessation treatment
2 options. The civil penalty shall not exceed one hundred dollars
3 (\$100).

4 (b) ~~If a campus adopts the enforcement and fine measures in~~
5 ~~subdivision (a), it shall, and the campuses of the University of~~
6 ~~California may, post signs stating their tobacco use policy on~~
7 ~~campus, as follows:~~

8 ~~(1) The locations at which smoking or tobacco use is prohibited~~
9 ~~on campus.~~

10 ~~(2) The locations at which smoking or tobacco use is permitted~~
11 ~~on campus.~~

12 ~~(c) If a campus adopts the enforcement and fine measure in~~
13 ~~subdivision (a), it shall, and a campus of the University of~~
14 ~~California may, inform employees and students of the tobacco use~~
15 ~~policy and enforcement measures employed on their campus.~~

16 SEC. 2. Section 7597.1 is added to the Government Code, to
17 read:

18 7597.1. (a) Notwithstanding any other law, *beginning January*
19 *1, 2018*, a person shall not smoke or use a tobacco product on a
20 campus of the California State University or the California
21 Community Colleges.

22 (b) The Trustees of the California State University and the
23 governing board of each community college district may do ~~both~~
24 *all* of the following:

25 (1) Set standards for the enforcement of the prohibition set forth
26 in subdivision (a) for the campuses within their respective
27 jurisdictions and inform employees and students at that campus
28 about those standards.

29 (2) *Conduct a positive educational campaign to increase the*
30 *awareness of a tobacco- and smoke-free policy.*

31 ~~(2) With~~

32 (3) (A) *Following a positive educational campaign and after*
33 *January 1, 2018, with respect to a violation of the prohibition set*
34 *forth in subdivision (a), impose a fine, not to exceed one hundred*
35 *dollars (\$100), for a first, second, and third offense and for each*
36 *subsequent offense. (\$100).* The amount of the fine imposed under
37 this paragraph shall be determined by the Trustees of the California
38 State University or the governing board of the affected community
39 college district, as appropriate. ~~The~~

1 (B) *The proceeds of the fines imposed under this paragraph*
2 *shall be allocated, upon appropriation, allocated for purposes to*
3 *include, but not necessarily be limited to, support of the educational*
4 *operations of the campus on which the violation occurs, education*
5 *about and promotion of the policy implemented by this section,*
6 *and tobacco use cessation treatment options for students of that*
7 *campus.*

8 (C) *Each college or university may implement policies and*
9 *procedures, including possible assistance from campus law*
10 *enforcement, for collecting and processing fines imposed under*
11 *this paragraph.*

12 (D) *If a campus adopts the enforcement and fine measures under*
13 *this paragraph, it shall, and the campuses of the University of*
14 *California may, post signs stating the campus tobacco use policy*
15 *in any locations that were specifically designated for smoking or*
16 *tobacco use before the prohibition set forth in subdivision (a) took*
17 *effect.*

18 (E) *No fine shall be imposed under this paragraph unless and*
19 *until an educational campaign conducted pursuant to paragraph*
20 *(2) fails to result in substantial compliance with the prohibition*
21 *set forth in subdivision (a).*

22 (c) The Regents of the University of California are encouraged
23 to adopt and enforce new, or continue to enforce existing, policies
24 substantially similar to subdivisions (a) and (b).

25 (d) For purposes of this section, the following definitions apply:

26 (1) To “smoke” means either of the following:

27 (A) To inhale, exhale, burn, or carry any lit or heated ~~substance,~~
28 ~~including, but not limited to, a tobacco product.~~ *cigar, cigarette,*
29 *pipe, or any other product intended for the inhalation of tobacco*
30 *or another plant product, whether natural or synthetic, in any*
31 *manner or in any form.*

32 (B) To operate an electronic smoking ~~instrument.~~ *device that*
33 *creates an aerosol or vapor in any manner or in any form, or any*
34 *other oral device for the purpose of circumventing a prohibition*
35 *against smoking.*

36 (2) “Use a tobacco product” means inhaling, smoking, chewing,
37 dipping, or any other assimilation into the body of tobacco.

38 (3) “Tobacco product” means all forms of tobacco, including
39 smokeless tobacco, cigarettes, cigars, pipes, hookahs, and
40 e-cigarettes.

1 (e) ~~This section shall become operative on January 1, 2018. The~~
2 *governing bodies of the California State University or a community*
3 *college district may continue and enforce a tobacco use policy*
4 *adopted before January 1, 2017, until the prohibition set forth in*
5 *subdivision (a) takes effect.*

6 SEC. 3. No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution for certain
8 costs that may be incurred by a local agency or school district
9 because, in that regard, this act creates a new crime or infraction,
10 eliminates a crime or infraction, or changes the penalty for a crime
11 or infraction, within the meaning of Section 17556 of the
12 Government Code, or changes the definition of a crime within the
13 meaning of Section 6 of Article XIII B of the California
14 Constitution.

15 However, if the Commission on State Mandates determines that
16 this act contains other costs mandated by the state, reimbursement
17 to local agencies and school districts for those costs shall be made
18 pursuant to Part 7 (commencing with Section 17500) of Division
19 4 of Title 2 of the Government Code.