

**ASSEMBLY BILL**

**No. 1043**

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**Introduced by Assembly Member Torres**

February 18, 2011

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An act to add Chapter 35 (commencing with Section 22949) to Division 8 of the Business and Professions Code, relating to cellular telephone equipment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1043, as introduced, Torres. Cellular telephones equipment: matter depicting a minor engaging or simulating sexual conduct.

Existing law regulates the conduct of various types of businesses and also establishes the Department of Consumer Affairs, which is under the control of a civil executive officer known as the Director of Consumer Affairs. Existing law prohibits the knowing possession or control of specified material depicting a person under 18 years of age personally engaging in or simulating sexual conduct.

This bill would, on and after July 1, 2012, require a retailer who sells cellular telephone equipment or contracts for cellular telephone service to provide customers in specified transactions with a brochure, in a form approved by the Director, describing the prohibition against controlling or possessing an image of a minor engaging in, or simulating, sexual conduct, and would make a violation of this requirement an infraction. The bill would require the Director to notify retailers of the requirement to provide customers with this brochure.

Because the bill would make the violation of its provisions by a retailer a crime, it 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. Chapter 35 (commencing with Section 22949)  
2 is added to Division 8 of the Business and Professions Code, to  
3 read:

4  
5 CHAPTER 35. CELLULAR TELEPHONE EQUIPMENT  
6

7 22949. On and after July 1, 2012, a retailer shall not sell cellular  
8 telephone equipment or a contract for cellular telephone equipment  
9 service, or renew a contract for cellular telephone service, unless  
10 the retailer provides the customer with a brochure, in a form  
11 approved by the Director of Consumer Affairs, describing the  
12 prohibition in Section 311.11 of the Penal Code against possessing  
13 or controlling an image of a minor engaging in, or simulating,  
14 sexual conduct.

15 22949.1. The Director of Consumer Affairs shall notify all  
16 retailers in this state that engage in the type of business described  
17 in Section 22949 of the requirements of that section.

18 22949.2. A violation of Section 22949 is an infraction,  
19 punishable by a fine of two hundred fifty dollars (\$250) for the  
20 first violation and by a fine of five hundred dollars (\$500) for each  
21 subsequent violation.

22 No reimbursement is required by this act pursuant to Section 6  
23 of Article XIII B of the California Constitution because the only  
24 costs that may be incurred by a local agency or school district will  
25 be incurred because this act creates a new crime or infraction,  
26 eliminates a crime or infraction, or changes the penalty for a crime  
27 or infraction, within the meaning of Section 17556 of the  
28 Government Code, or changes the definition of a crime within the

1 meaning of Section 6 of Article XIII B of the California  
2 Constitution.

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