

AMENDED IN ASSEMBLY JUNE 23, 2011

AMENDED IN ASSEMBLY JUNE 15, 2011

AMENDED IN ASSEMBLY JUNE 6, 2011

AMENDED IN SENATE MAY 3, 2011

AMENDED IN SENATE APRIL 14, 2011

SENATE BILL

No. 332

Introduced by Senator Padilla

(Coauthors: Assembly Members Gordon and Williams)

February 15, 2011

An act to add Section 1947.5 to the Civil Code, relating to tenancies.

LEGISLATIVE COUNSEL'S DIGEST

SB 332, as amended, Padilla. Rental dwellings: smoking.

Existing law regulates the terms and conditions of residential tenancies. Existing law authorizes the creation of antitobacco use programs for school-age populations and prohibits any person from smoking a cigarette, cigar, or other tobacco-related product, or from disposing of cigarette butts, cigar butts, or any other tobacco-related waste, within a playground.

This bill would authorize a landlord of a residential dwelling unit to prohibit the smoking of tobacco products on the property, in a dwelling unit, in another interior or exterior area, or on the premises on which the dwelling unit is located. The bill would make certain requirements on notices and leases executed on and after, and on and before, January 1, 2012, in this regard. The bill would require that a landlord who prohibits smoking pursuant to this authority be subject to federal, state, and local requirements governing changes to the terms of a lease or

rental agreement for tenants, as specified. The bill would provide that its provisions do not preempt local ordinances in effect on or before January 1, 2012, *or a provision of a local ordinance on or after January 1, 2012, that prohibits the smoking of cigarettes or other tobacco products.*

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. The Legislature finds and declares all of the
2 following:
- 3 (a) More than 443,000 people die in the United States from
4 tobacco-related diseases every year, making tobacco-related
5 diseases the nation's leading cause of preventable death.
- 6 (b) The State Department of Public Health has estimated that
7 86 percent of adult Californians are nonsmokers. Secondhand
8 smoke is responsible for an estimated 49,400 deaths among
9 nonsmokers each year in the United States, which includes 3,400
10 lung cancer deaths and 46,000 deaths due to heart disease.
11 Secondhand smoke also has been proven to cause cancer in
12 humans.
- 13 (c) Secondhand smoke exposure adversely affects fetal growth
14 with elevated risk of low birth weight and increased risk of sudden
15 infant death syndrome (SIDS) in infants of mothers who smoke.
- 16 (d) Secondhand smoke exposure causes as many as 300,000
17 children in the United States under 18 months of age to suffer
18 lower respiratory tract infections, such as pneumonia and
19 bronchitis; exacerbates childhood asthma; and increases the risk
20 of acute, chronic, middle-ear infections in children.
- 21 (e) The United States Environmental Protection Agency has
22 classified secondhand smoke as a group A carcinogen, the most
23 dangerous class of carcinogen.
- 24 (f) The United States Surgeon General has concluded that there
25 is no risk-free level of exposure to secondhand smoke.
- 26 (g) The State Air Resources Board has put secondhand smoke
27 in the same category as the most toxic automotive and industrial
28 air pollutants by categorizing it as a toxic air contaminant for which
29 there is no safe level of exposure.

1 (h) The California Environmental Protection Agency has
2 included secondhand smoke on the Proposition 65 list of chemicals
3 known to the State of California to cause cancer, birth defects, and
4 other reproductive harm.

5 (i) Thirty-one percent of California's housing is multiunit
6 residences, such as apartments and condominiums.

7 SEC. 2. Section 1947.5 is added to the Civil Code, to read:

8 1947.5. (a) A landlord of a residential dwelling unit, as defined
9 in Section 1940, or his or her agent, may prohibit the smoking of
10 a cigarette, as defined in Section 104556 of the Health and Safety
11 Code, or other tobacco product on the property or in any building
12 or portion of the building, including any dwelling unit, other
13 interior or exterior area, or the premises on which it is located, in
14 accordance with this article. ~~A limitation or prohibition on the use~~
15 ~~of any tobacco product shall not affect any other term or condition~~
16 ~~of the tenancy.~~

17 (b) (1) Every lease or rental agreement entered into on or after
18 January 1, 2012, for a residential dwelling unit on property on any
19 portion of which the landlord has prohibited the smoking of
20 cigarettes or other tobacco products pursuant to this article shall
21 include a provision that specifies the areas on the property where
22 smoking is prohibited, if the lessee has not previously occupied
23 the dwelling unit.

24 (2) For a lease or rental agreement entered into before January
25 1, 2012, a prohibition against the smoking of cigarettes or other
26 tobacco products in any portion of the property in which smoking
27 was previously permitted shall constitute a change of the terms of
28 tenancy, requiring adequate notice in writing, to be provided in
29 the manner prescribed in Section 827.

30 (c) A landlord who exercises the authority provided in
31 subdivision (a) to prohibit smoking shall be subject to federal,
32 state, and local requirements governing changes to the terms of a
33 lease or rental agreement for tenants with leases or rental
34 agreements that are in existence at the time that the policy *limiting*
35 *or prohibiting* smoking is adopted.

36 (d) This section shall not be construed to preempt any local
37 ordinance in effect on or before January 1, 2012, ~~nor shall it be or~~
38 ~~any provision of a local ordinance in effect on or after January 1,~~
39 ~~2012, that restricts the smoking of cigarettes or other tobacco~~
40 ~~products.~~

1 (e) *A limitation or prohibition of the use of any tobacco product*
2 *shall not affect any other term or condition of the tenancy, nor*
3 *shall this section be construed to require statutory authority to*
4 establish or enforce any other lawful term or condition of the
5 tenancy.

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