

AMENDED IN ASSEMBLY JANUARY 6, 2014

AMENDED IN ASSEMBLY APRIL 2, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 746

Introduced by Assembly Member Levine

February 21, 2013

An act to add Article 4 (commencing with Section 118960) to Chapter 4 of Part 15 of Division 104 of the Health and Safety Code, relating to smoking.

LEGISLATIVE COUNSEL'S DIGEST

AB 746, as amended, Levine. ~~Smoking prohibition in multifamily dwellings. Secondhand smoke.~~

Existing law regulates the smoking of tobacco in various public places, prohibits the smoking of tobacco in a private residence that is licensed as a family day care home during its hours of operation and in those areas of the facility where children are present, and authorizes a landlord to prohibit the smoking of tobacco in the building or on the property.

~~This bill would prohibit the smoking of a cigarette or other tobacco products in all areas of multifamily dwellings, except those areas designated as areas where smoking is permitted, as specified. This bill would define, for the purposes of these provisions, multifamily dwellings to mean residential property containing 2 or more units with one or more shared walls, floors, ceilings, or ventilation systems. This bill would provide that any person who violates the requirements of the bill is guilty of an infraction, punishable as specified. The bill would require the State Department of Public Health to develop, implement, and publicize a smoking cessation awareness and educational program;~~

including a description of the penalties that shall be imposed for a violation of the bill's provisions. By creating a new 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:

This bill would provide that as a matter of state policy, every person in the State of California has the right to a 100% smoke-free home by 2030. The bill would also make related findings and declarations.

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

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

1 SECTION 1. Article 4 (commencing with Section 118960) is
2 added to Chapter 4 of Part 15 of Division 104 of the Health and
3 Safety Code, to read:

4
5 Article 4. ~~Smoking in Multifamily Dwellings-Secondhand~~
6 *Smoke*
7

8 ~~118960. (a) The smoking of a cigarette, as defined in Section~~
9 ~~104556, or other tobacco product is prohibited in the units and all~~
10 ~~other areas of new and existing multifamily dwellings, except those~~
11 ~~areas that have been designated pursuant to subdivision (c) as areas~~
12 ~~where smoking is permitted.~~

13 ~~(b) For the purposes of this section, "multifamily dwelling"~~
14 ~~means residential property containing two or more units with one~~
15 ~~or more shared walls, floors, ceilings, or ventilation systems.~~

16 ~~(c) The landlord, property manager, building owner,~~
17 ~~homeowners' association, or other equivalent authority may~~
18 ~~designate an outdoor area where smoking is permitted if the area~~
19 ~~meets all of the following criteria:~~

20 ~~(1) The area is located at least 20 feet from any unit or enclosed~~
21 ~~area where smoking is prohibited.~~

22 ~~(2) The area does not include, and is at least 100 feet from,~~
23 ~~unenclosed areas primarily used by children and unenclosed areas~~

1 with improvements that facilitate physical activity including
2 playgrounds, swimming pools, and school campuses.

3 ~~(3) The area includes no more than 10 percent of the total~~
4 ~~enclosed area of the multifamily dwelling for which it is~~
5 ~~designated.~~

6 ~~(4) The area has a clearly marked perimeter and is identified by~~
7 ~~conspicuous signs.~~

8 ~~(5) The area is completely within a confined area.~~

9 ~~(6) The area does not overlap with any enclosed or unenclosed~~
10 ~~area in which smoking is otherwise prohibited.~~

11 ~~(d) On and after January 1, 2015, any person who violates this~~
12 ~~section is guilty of an infraction and shall be punished as follows:~~

13 ~~(1) For a first offense, by being informed, in writing, that~~
14 ~~smoking in the unit or enclosed area is a violation of this section.~~

15 ~~(2) For a second offense, by a fine not to exceed one hundred~~
16 ~~dollars (\$100) for each violation, or by enrollment in a smoking~~
17 ~~cessation program offered through the State Department of Public~~
18 ~~Health.~~

19 ~~(3) For a third offense, by a fine not to exceed two hundred~~
20 ~~dollars (\$200).~~

21 ~~(e) This section shall not preempt a city or county from enacting~~
22 ~~or enforcing an ordinance relating to smoking in multifamily~~
23 ~~dwellings if the ordinance is more stringent than this section.~~

24 ~~(f) The State Department of Public Health shall develop,~~
25 ~~implement, and publicize a smoking cessation awareness and~~
26 ~~educational program, including a description of the penalties that~~
27 ~~shall be imposed for a violation of this section.~~

28 *118960. (a) The Legislature finds and declares all of the*
29 *following:*

30 *(1) The Surgeon General of the United States has found that*
31 *there is no risk-free level of contact with secondhand smoke.*

32 *(2) The State Air Resources Board has classified secondhand*
33 *smoke as a toxic air contaminant.*

34 *(3) The federal Centers for Disease Control and Prevention*
35 *(CDC) estimates that secondhand smoke causes 50,000 premature*
36 *deaths annually. In infants and children, secondhand smoke*
37 *exposure can cause severe asthma attacks, respiratory infections,*
38 *ear infections, and sudden infant death syndrome. Secondhand*
39 *smoke can both cause and worsen respiratory conditions, including*
40 *chronic obstructive pulmonary disease (COPD). Adults with COPD*

1 are particularly at risk when exposed to secondhand smoke, often
2 developing a worsening of COPD symptoms, including increased
3 shortness of breath, cough, and mucus production. Secondhand
4 tobacco smoke kills more people than all the other carcinogens
5 currently regulated by the United States Environmental Protection
6 Agency combined, including asbestos, arsenic, benzene, radon,
7 and radionuclides.

8 (4) In December 2012, the CDC published a study in the Journal
9 of Nicotine and Tobacco that estimated that 4.6 to 4.9 million
10 Californians are exposed to secondhand smoke in their multiunit
11 housing homes against their wishes.

12 (5) In April 2013, a study published in the American Journal
13 of Preventive Medicine concluded that efforts to prohibit smoking
14 in all subsidized housing would protect health and generate
15 substantial cost savings to society.

16 (6) Lighted tobacco is the leading cause of residential fire
17 deaths. Of residential fire deaths from tobacco, one-in-four
18 fatalities was not the smoker.

19 (7) According to the CDC, secondhand smoke exposure tends
20 to be high for persons with low incomes. Sixty and one-half percent
21 of people living below the poverty level in the United States are
22 exposed to secondhand smoke. Secondhand smoke exposure also
23 disproportionately affects non-Hispanic black Americans with over
24 55 percent facing exposure.

25 (8) According to the State Department of Public Health, over
26 90 percent of all people agree that any exposure to secondhand
27 smoke can harm the health of babies and children, and over 75
28 percent of smokers recognize that inhaling smoke from someone
29 else's cigarette causes lung cancer.

30 (9) Multiple studies show that secondhand smoke can move
31 through air ducts, wall and floor cracks, elevator shafts, and along
32 crawl spaces to contaminate apartments on other floors, including
33 those that are far from the smoke. Secondhand smoke cannot be
34 controlled with ventilation, air cleaning, or by separating smokers
35 from nonsmokers.

36 (b) As a matter of state policy, every person in the State of
37 California has the right to a 100 percent smoke-free home by 2030.

38 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
39 ~~Section 6 of Article XIII B of the California Constitution because~~
40 ~~the only costs that may be incurred by a local agency or school~~

1 ~~district will be incurred because this act creates a new crime or~~
2 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
3 ~~for a crime or infraction, within the meaning of Section 17556 of~~
4 ~~the Government Code, or changes the definition of a crime within~~
5 ~~the meaning of Section 6 of Article XIII B of the California~~
6 ~~Constitution.~~

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