

ASSEMBLY BILL

No. 2644

Introduced by Assembly Member Nazarian

February 21, 2014

An act to amend Sections 114276, 118500, and 118505 of the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2644, as introduced, Nazarian. Toilet facilities.

Existing law, the California Retail Food Code, sets forth uniform health and sanitation standards for retail food facilities. Local health agencies are primarily responsible for enforcing this code. These provisions are also enforced by the State Department of Public Health, except as specified. Among other things, the code sets forth standards for toilet facilities located in permanent food facilities. A person who violates any provision of the code is guilty of a misdemeanor, except as otherwise provided.

Existing law also requires every public agency that conducts an establishment serving the public or open to the public and that maintains in that establishment restroom facilities for the public, to make every water closet, or restroom, for each sex maintained within the facilities available without cost or charge to the patrons, guests, or invitees of the establishment. Existing law generally requires publicly and privately owned facilities, including sports and entertainment arenas, stadiums, community and convention halls, and specialty event centers, where the public congregates to be equipped with sufficient temporary or permanent restrooms to meet the needs of the public at peak hours.

This bill would require each toilet stall in (1) toilet facilities located in permanent food facilities and provided for use by consumers, guests,

and invitees, (2) restroom facilities maintained by a public agency in an establishment that serves or is open to the public, and (3) temporary or permanent restroom facilities in publicly and privately owned facilities where the public congregates to contain a waste receptacle. By imposing new duties on local health agencies and by revising the definition of a crime, the bill would impose a state-mandated local program.

The bill would also make technical changes.

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 114276 of the Health and Safety Code
- 2 is amended to read:
- 3 114276. (a) A permanent food facility shall provide clean
- 4 toilet facilities in good repair for use by employees.
- 5 (b) (1) A permanent food facility shall provide clean toilet
- 6 facilities in good repair for consumers, guests, or invitees when
- 7 there is onsite consumption of foods or when the food facility was
- 8 constructed after July 1, 1984, and has more than 20,000 square
- 9 feet of floor space.
- 10 (2) Notwithstanding Section 113984.1, toilet facilities that are
- 11 provided for use by consumers, guests, or invitees shall be in a
- 12 location where consumers, guests, and invitees do not pass through
- 13 food preparation, food storage, or utensil washing areas to reach
- 14 the toilet facilities. *Each toilet stall provided for use by consumers,*
- 15 *guests, or invitees shall contain a waste receptacle.*
- 16 (3) For purposes of this section, a building subject to paragraph
- 17 (1) that has a food facility with more than 20,000 square feet of

1 floor space shall provide at least one separate toilet facility for
2 men and one separate toilet facility for women.

3 (4) For purposes of this section, the gas pump area of a service
4 station that is maintained in conjunction with a food facility shall
5 not be considered as property used in connection with the food
6 facility or be considered in determining the square footage of floor
7 space of the food facility.

8 (c) (1) Toilet rooms shall be separated by well-fitted,
9 self-closing doors that prevent the passage of flies, dust, or odors.

10 (2) Toilet room doors shall be kept closed except during cleaning
11 and maintenance operations.

12 (d) Handwashing facilities, in good repair, shall be provided as
13 specified in Sections 113953 and 113953.3.

14 (e) ~~Any~~A city, county, or city and county may enact ordinances
15 that are more restrictive than this section.

16 (f) (1) Except as provided in paragraph (1) of subdivision (b),
17 ~~any~~ a building that is constructed before January 1, 2004, that has
18 a food facility that provides space for the consumption of food on
19 the premises shall either provide clean toilet facilities in good
20 repair for consumers, guests, or invitees on property used in
21 connection with, or in, the food facility or prominently post a sign
22 within the food facility in a public area stating that toilet facilities
23 are not provided.

24 (2) The first violation of paragraph (1) shall result in a warning.
25 Subsequent violations shall constitute an infraction punishable by
26 a fine of not more than two hundred fifty dollars (\$250).

27 (3) The requirements of this section for toilet facilities that are
28 accessible to consumers, guests, or invitees on the property may
29 be satisfied by permitting access by those persons to the toilet and
30 handwashing facilities that are required by this part.

31 SEC. 2. Section 118500 of the Health and Safety Code is
32 amended to read:

33 118500. Every public agency that conducts an establishment
34 serving the public or open to the public, and that maintains therein
35 restroom facilities for the public, shall make every ~~water closet~~
36 *restroom* for each sex maintained within the facilities available
37 without cost or charge to the patrons, guests, or invitees of the
38 establishment *and each toilet stall shall contain a waste receptacle.*
39 “Public agency” as used in this section means only the state and
40 any agency of the state and a city, a county, and a city and county.

1 SEC. 3. Section 118505 of the Health and Safety Code is
2 amended to read:

3 118505. (a) Publicly and privately owned facilities where the
4 public congregates shall be equipped with sufficient temporary or
5 permanent restrooms to meet the needs of the public at peak hours.
6 *Each toilet stall shall contain a waste receptacle.*

7 (b) In conformity with the State Plumbing Code, and except as
8 otherwise provided in this section, standards shall be adopted in
9 order to enforce this section, as follows:

10 (1) ~~The State California~~ Building Standards Commission shall
11 adopt standards with respect to all state-owned or state-occupied
12 facilities where the public congregates and over which it has
13 jurisdiction pursuant to Section 18934.5.

14 (2) The Office of the State Architect shall adopt standards with
15 respect to all facilities where the public congregates and that are
16 not covered by paragraph (1), unless exempt from coverage
17 pursuant to this section.

18 (c) The standards adopted pursuant to subdivision (b) shall be
19 published in the ~~State California~~ Building Standards Code
20 contained in Title 24 of the California Code of Regulations.

21 (d) This section shall apply to facilities where the public
22 congregates that commence construction, or that undertake
23 structural alterations, repairs, or improvements exceeding 50
24 percent of the entire facility, on or after January 1, 1989.

25 (e) (1) For the purposes of this section, “facilities where the
26 public congregates” means sports and entertainment arenas,
27 stadiums, community and convention halls, specialty event centers,
28 amusement facilities, and ski resorts.

29 ~~For~~

30 (2) *For* purposes of this section, “facilities where the public
31 congregates” also means specialty event centers in public parks.

32 (f) This section shall not apply to the following:

33 (1) ~~Any~~ A hotel. For purposes of this section, “hotel” means an
34 establishment in which there exists the relationship of guests and
35 innkeeper between the occupants and the owner or operator of the
36 establishment. The existence of some other legal relationship
37 between the occupants and owner or operator shall be immaterial.

38 (2) ~~Any~~ A restaurant or food facility, as defined in Section
39 ~~113785~~ 113789.

1 (3) ~~Any~~ A public or private elementary or secondary school
2 facility.

3 (4) ~~Any~~ A qualified historic building, defined as qualifying
4 under provisions in the ~~State~~ *California* Historical Building Code
5 contained in Part 8 (commencing with Section ~~8-100~~ *8-101.1*) of
6 Title 24 of the California Code of Regulations.

7 (g) It is the intent of the Legislature that, in order to ensure that
8 standards are both viable and efficacious, the Office of the State
9 Architect and the ~~State~~ *California* Building Standards Commission
10 hold a series of public meetings with representatives of affected
11 industries and state and local agencies prior to adopting standards
12 under this section.

13 SEC. 4. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution for certain
15 costs that may be incurred by a local agency or school district
16 because, in that regard, this act creates a new crime or infraction,
17 eliminates a crime or infraction, or changes the penalty for a crime
18 or infraction, within the meaning of Section 17556 of the
19 Government Code, or changes the definition of a crime within the
20 meaning of Section 6 of Article XIII B of the California
21 Constitution.

22 However, if the Commission on State Mandates determines that
23 this act contains other costs mandated by the state, reimbursement
24 to local agencies and school districts for those costs shall be made
25 pursuant to Part 7 (commencing with Section 17500) of Division
26 4 of Title 2 of the Government Code.

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