

**Introduced by Senator DeSaulnier**February 22, 2013

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An act to add Article 6 (commencing with Section 108670) to Chapter 5 of Part 3 of Division 104 of the Health and Safety Code, relating to public health.

## LEGISLATIVE COUNSEL'S DIGEST

SB 747, as introduced, DeSaulnier. Public Health Impact Report.

Existing law requires the State Department of Public Health to regulate various consumer products, including food and drugs, for the protection of the people of the state.

This bill, known as the Public Health Epidemic Protection Act of 2013, would require the department, for every product intended for consumer consumption for which it has credible evidence that the product significantly contributes to a significant public epidemic, to conduct a risk assessment evaluation to determine whether the product contributes significantly to a significant public health epidemic, as defined, and whether the adverse public health risk would have a fiscal impact on the state of \$50,000,000 or more. The bill would authorize the department to charge the manufacturer of the product for the reasonable costs of producing the risk assessment and would create the Public Health Fund, to be used by the department, upon appropriation by the Legislature, to fund the program. If the department determines that the criteria are met, the bill would require the manufacturer to create, for approval of the department, a public health impact report (PHIR) containing specified information, including a list of adverse public health impacts and a mitigation plan for those impacts. The bill would authorize the department to enforce the PHIR and would authorize the department to restrict or suspend sales of the product in the state if

the PHIR is insufficient or if the manufacturer is not complying with the terms of the PHIR.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
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) Public health for the people of the state is now, and in the  
4 future, a matter of statewide concern.

5 (b) The health and well-being of all people is a critical element  
6 in supporting a healthy and prosperous California, including  
7 economic sustainability, increasing workforce participation and  
8 productivity, and slowing the ongoing rise of medical care  
9 expenditures.

10 (c) California and its residents face a growing burden of largely  
11 preventable chronic illness, including heart disease, stroke, obesity,  
12 and diabetes.

13 (d) It is the intent of the Legislature to find ways to develop and  
14 maintain public health, prevent negative public health risks, provide  
15 the people of the state with protection from products sold in the  
16 state that pose significant negative health risks, and development  
17 mitigation strategies.

18 (e) It is the intent of the Legislature to take immediate steps to  
19 identify products sold in the state for consumer consumption that  
20 pose a critical public health risk and coordinate any actions  
21 necessary to prevent or mitigate those risks.

22 (f) It is the intent of the Legislature to regulate products sold in  
23 the state for consumer consumption that pose significant public  
24 health risks and mitigate their use in order to prevent chronic illness  
25 and improve public health.

26 SEC. 2. Article 6 (commencing with Section 108670) is added  
27 to Chapter 5 of Part 3 of Division 104 of the Health and Safety  
28 Code, to read:

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30 Article 6. Public Health Impact Assessments

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32 108670. This article shall be known, and may be cited, as the  
33 Public Health Epidemic Protection Act of 2013.

1 108671. (a) The State Department of Public Health shall, for  
2 every product intended for consumer consumption that the  
3 department has credible evidence that the product significantly  
4 contributes to a significant public epidemic, conduct a risk  
5 assessment evaluation. The department, in doing the risk  
6 assessment evaluation, shall use currently available research, data,  
7 and studies to determine the following:

8 (1) If the product contributes significantly to a significant public  
9 health epidemic, as recognized by the federal Centers for Disease  
10 Control and Prevention.

11 (2) If there is evidence that the adverse public health risk would  
12 have a fiscal impact on the state of fifty million dollars  
13 (\$50,000,000) or more.

14 (b) The department may charge the manufacturer of the product  
15 for the reasonable costs of producing the risk assessment pursuant  
16 to this section. Fees collected pursuant to this subdivision shall be  
17 placed in the Public Health Fund, which is hereby established in  
18 the State Treasury and which may be used by the department, upon  
19 appropriation by the Legislature, for the implementation of this  
20 article.

21 108672. (a) If a risk assessment determines that the product  
22 meets both of the requirements in subdivision (a) of Section  
23 108671, the department shall require the product's manufacturer  
24 to create a public health impact report (PHIR). The PHIR shall be  
25 submitted to the department for approval.

26 (b) The PHIR shall include all of the following:

27 (1) A list of adverse public health impacts that cannot be avoided  
28 if the product is sold in the state.

29 (2) The benefits, costs, and alternatives to the consumer product.

30 (3) Alternatives available, if any.

31 (4) A mitigation plan sufficient to minimize the adverse public  
32 health impacts identified in paragraph (1).

33 (c) The department may take actions necessary to enforce the  
34 PHIR, including, but not limited to, requiring that the manufacturer  
35 establish a trust or place moneys in escrow sufficient to cover the  
36 estimated costs of implementation.

37 (d) If the department determines that the PHIR prepared by the  
38 manufacturer is insufficient or that the manufacturer is not  
39 complying with the terms of the PHIR, then the department may  
40 restrict or prohibit the sale of the product in this state.

1 108673. The department shall enact all regulations necessary  
2 to implement this article pursuant to the Administrative Procedure  
3 Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of  
4 Division 3 of Title 2 of the Government Code).

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