

AMENDED IN SENATE APRIL 15, 2013

SENATE BILL

No. 747

Introduced by Senator DeSaulnier

February 22, 2013

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 amended, 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 *department to* require the manufacturer of a contributing product, as defined, 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. *The bill would authorize the department to charge the manufacturer of the product for the reasonable costs of reviewing, approving, and enforcing the PHIR requirements.*

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 *develop* 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:

1 Article 6. Public Health Impact Assessments

2
3 108670. This article shall be known, and may be cited, as the
4 Public Health Epidemic Protection Act of 2013.

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

12 ~~(1) If the product contributes significantly to a significant public~~
13 ~~health epidemic, as recognized by the federal Centers for Disease~~
14 ~~Control and Prevention.~~

15 ~~(2) If there is evidence that the adverse public health risk would~~
16 ~~have a fiscal impact on the state of fifty million dollars~~
17 ~~(\$50,000,000) or more.~~

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

25 *108671. For the purposes of this article, the following*
26 *definitions shall apply:*

27 *(a) “Contributing product” means a product intended for*
28 *consumer consumption in this state for which the department has*
29 *credible evidence that use of the product significantly contributes*
30 *to a public health epidemic and that meets both of the following*
31 *criteria:*

32 *(1) The public health epidemic to which the product contributes*
33 *is one recognized by the federal Centers for Disease Control and*
34 *Prevention.*

35 *(2) The adverse impact on public health from use of the product*
36 *in this state would have a fiscal impact of fifty million dollars*
37 *(\$50,000,000) or more annually.*

38 *(b) “Credible evidence” means research, data, and studies*
39 *currently available to the department.*

40 *(c) “Department” means the State Department of Public Health.*

1 108672. (a) ~~If a risk assessment determines that the product~~
2 ~~meets both of the requirements in subdivision (a) of Section~~
3 ~~108671, the department determines that a product is a contributing~~
4 *product then the department shall require the product's*
5 *manufacturer to create a public health impact report (PHIR). The*
6 *PHIR shall be submitted to the department for approval.*

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

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

10 (2) The benefits, costs, and alternatives to the ~~consumer~~
11 *contributing product.*

12 (3) Alternatives available, if any.

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

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

19 (d) If the department determines that the PHIR prepared by the
20 manufacturer is insufficient or that the manufacturer is not
21 complying with the terms of the PHIR, then the department may
22 restrict or prohibit the sale of the product in this state.

23 108673. The department shall enact all regulations necessary
24 to implement this article pursuant to the Administrative Procedure
25 Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of
26 Division 3 of Title 2 of the Government Code).

27 108674. *The department may charge the manufacturer of the*
28 *product for the reasonable costs of reviewing, approving, and*
29 *enforcing the PHIR requirements. Fees collected pursuant to this*
30 *subdivision shall be placed in the Public Health Fund, which is*
31 *hereby established in the State Treasury and which may be used*
32 *by the department, upon appropriation by the Legislature, for the*
33 *implementation of this article.*

34 108675. *Notwithstanding subdivision (c) of Section 25257.1,*
35 *the requirements of this article shall not be interpreted to affect*
36 *any authority of the Department of Toxic Substances Control*
37 *pursuant to Article 14 (commencing with Section 25251) of Chapter*
38 *6.5 of Division 20.*

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