

AMENDED IN SENATE APRIL 23, 2013

AMENDED IN SENATE APRIL 15, 2013

**SENATE BILL**

**No. 747**

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**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 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~~ *Prevention* Act of 2013, would require the department to require the manufacturer *or a group of manufacturers* 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 require the manufacturer to mitigate the fiscal impacts on the state public health system over a reasonable period of time.* 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 develop  
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:

29

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~~ *Prevention* Act of 2013.

34 108671. For the purposes of this article, the following  
35 definitions shall apply:

1 (a) “Contributing product” means a *manufactured* product  
2 intended for consumer consumption in this state for which the  
3 department has credible evidence that use of the product  
4 significantly contributes to a public health epidemic and that meets  
5 both of the following criteria:

6 (1) The public health epidemic to which the product contributes  
7 is one recognized by the federal Centers for Disease Control and  
8 Prevention, *the United States Department of Health and Human*  
9 *Services, the Surgeon General, or the United States Food and*  
10 *Drug Administration.*

11 (2) The adverse impact on public health from use of the product  
12 in this state would have a fiscal impact of fifty million dollars  
13 (\$50,000,000) or more annually *on the state public health system,*  
14 *including, but not limited to, public hospitals and overall Medi-Cal*  
15 *expenditures.*

16 (b) “Credible evidence” means *peer-reviewed* research, data,  
17 and studies currently available to the department.

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

19 (d) “*Manufacturer*” means *the manufacturer that created the*  
20 *public health impact report or, if the public health impact report*  
21 *was created by a group of the largest manufacturers, every*  
22 *manufacturer that participated in the study and submitted the*  
23 *report to the department.*

24 108672. (a) If the department determines that a product is a  
25 contributing product, then the department shall require the  
26 *contributing product’s—~~manufacturer~~ largest manufacturers,*  
27 *representing 80 percent of the costs identified in subdivision (a)*  
28 *and that do business in the state, to create a public health impact*  
29 *report (PHIR). The PHIR shall be submitted to the department for*  
30 *approval. As appropriate, the department may grant permission*  
31 *for the contributing product’s largest manufacturers to participate*  
32 *in one study and submit one PHIR to the department for approval.*

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

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

36 (2) The benefits, costs, and alternatives to the contributing  
37 product.

38 (3) Alternatives available, if any.

1 (4) A mitigation plan sufficient to ~~minimize~~ *reasonably reduce*  
2 the adverse public health impacts identified in paragraph (1), *to*  
3 *be implemented by the manufacturer.*

4 (c) *The manufacturer shall mitigate the adverse public health*  
5 *fiscal impacts on the state’s health system over a reasonable period*  
6 *of time. The mitigation plan shall consider and prioritize the most*  
7 *cost-effective mitigation.*

8 (d) *In preparing the mitigation plan, manufacturers may create*  
9 *and fund an advisory committee to make recommendations.*

10 ~~(e) The~~  
11 (e) *Prior to approval or rejection of the PHIR, the department*  
12 *shall report to the respective Senate and Assembly committees on*  
13 *health and budget. The department may take actions necessary to*  
14 *enforce the PHIR, including, but not limited to, requiring that the*  
15 *manufacturer establish a trust or place moneys in escrow sufficient*  
16 *to cover the estimated costs of implementation.*

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

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  
38 Chapter 6.5 of Division 20.

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