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SENATE BILL

No. 1358

Introduced by Senators Wolk and Lara
(Coauthors: Senators Corbett and Padilla)
(Coauthor: Assembly Member Garcia)

February 21, 2014

An act to add ~~Section 18941.11 to the Health and Safety Code, relating to building standards. Sections 15805 and 50535 to the Government Code, and to amend Section 114276 of, and to add Section 118506 to, the Health and Safety Code, relating to public accommodations.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1358, as amended, Wolk. ~~Building standards: baby~~ Baby diaper changing stations.

(1) Existing law establishes and imposes on state and local agencies various requirements relating to the acquisition, construction, and renovation of public buildings.

This bill would require new construction or renovation, as specified, of a public building, as specified, that is owned by a state or a local agency, or a portion of a building that is owned by a state or local

agency and includes at least one restroom that is open to the public, to provide on each floor level containing one or more restrooms that are accessible to the public at least one safe, sanitary, and convenient baby diaper changing station, as specified. The bill would require each station to be maintained, repaired, and replaced as necessary to ensure safety and ease of use, and to be cleaned with the same frequency as the restroom in which it is located. By imposing a higher level of service on local agencies, the bill would impose a state-mandated local program.

(2) Existing law, the California Retail Food Code, establishes uniform health and sanitation standards for retail food facilities and provides for the enforcement of those standards by local health agencies and by the State Department of Public Health, as specified. Among other sanitation standards, the code requires a permanent food facility to provide clean toilet facilities in good repair for consumers, guests, or invitees if the food facility was constructed after July 1, 1984, and has more than 20,000 square feet of floor space. A violation of these provisions is a crime.

This bill would require a permanent food facility, as specified, to provide a clean baby diaper changing station in good repair for consumers, guests, or invitees. By creating a new crime and by imposing a higher level of service on local health agencies, the bill would impose a state-mandated program.

(3) Existing law also requires publicly and privately owned facilities where the public congregates to be equipped with sufficient restrooms to meet the needs of the public at peak hours.

This bill would require various facilities, including a theater, sports arena, or library, to install and maintain at least one baby diaper changing station if the facility is open to the public, as specified.

(4) The bill would set forth findings and declarations stating that ensuring that safe, sanitary, and convenient baby diaper changing stations are widely available throughout the state is a matter of statewide concern.

(5) 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.

~~The California Building Standards Law provides for the adoption of building standards by state agencies by requiring all state agencies that adopt or propose adoption of any building standard to submit building standards to the California Building Standards Commission for approval and adoption. In the absence of a designated state agency, the commission is required to adopt specific building standards, as prescribed. Existing law requires the commission to publish, or cause to be published, editions of the California Building Standards Code in its entirety once every 3 years.~~

~~This bill would require the commission, commencing with the next triennial edition of the California Building Standards Code adopted after January 1, 2015, to adopt, approve, codify, and publish mandatory building standards for the installation of baby diaper changing accommodations in restroom facilities in public use spaces, as specified.~~

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

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

1 SECTION 1. Section 15805 is added to the Government Code,
2 to read:
3 15805. (a) A public building that is owned by a state agency,
4 or a portion of a building that is owned by the state and includes
5 at least one restroom that is open to the public, shall provide on
6 each floor level containing one or more restrooms that are
7 accessible to the public at least one safe, sanitary, and convenient
8 baby diaper changing station that is accessible to women entering
9 a restroom provided for use by women and at least one safe,
10 sanitary, and convenient baby diaper changing station that is
11 accessible to men entering a restroom provided for use by men,
12 or at least one safe, sanitary, and convenient baby diaper changing
13 station that is accessible to both men and women. Each station
14 shall include signage at or near the entrance to the station
15 indicating the location of the baby diaper changing station. If there
16 is a central directory identifying, for the benefit of the public, the
17 location of offices, restrooms, and other facilities in the building,

1 *that central directory shall indicate the location of the baby diaper*
2 *changing stations. Each baby diaper changing station shall be*
3 *maintained, repaired, and replaced as necessary to ensure safety*
4 *and ease of use, and shall be cleaned with the same frequency as*
5 *the restroom in which it is located.*

6 *(b) (1) Subdivision (a) applies to all new construction, and,*
7 *except as otherwise provided in paragraph (2), to all renovations*
8 *of bathrooms for which a permit has been obtained, in which the*
9 *estimated cost of the new construction or renovation is ten*
10 *thousand dollars (\$10,000) or more.*

11 *(2) Subdivision (a) does not apply to a renovation if a local*
12 *building permitting entity or building inspector determines that*
13 *the installation of a baby diaper changing station is not feasible*
14 *or would result in a failure to comply with applicable building*
15 *standards governing the right of access for persons with*
16 *disabilities. The permitting entity or building inspector may grant*
17 *an exemption from the requirements of this section under those*
18 *circumstances.*

19 *SEC. 2. Section 50535 is added to the Government Code, to*
20 *read:*

21 *50535. (a) A public building that is owned by a local agency,*
22 *or a portion of a building that is owned by a local agency and*
23 *includes at least one restroom that is open to the public, shall*
24 *provide on each floor level containing one or more restrooms that*
25 *are accessible to the public at least one safe, sanitary, and*
26 *convenient baby diaper changing station that is accessible to*
27 *women entering a restroom provided for use by women and at*
28 *least one safe, sanitary, and convenient baby diaper changing*
29 *station that is accessible to men entering a restroom provided for*
30 *use by men, or at least one safe, sanitary, and convenient baby*
31 *diaper changing station that is accessible to both men and women.*
32 *Each station shall include signage at or near the entrance to the*
33 *station indicating the location of the baby diaper changing station.*
34 *If there is a central directory identifying, for the benefit of the*
35 *public, the location of offices, restrooms, and other facilities in*
36 *the building, that central directory shall indicate the location of*
37 *the baby diaper changing stations. Each baby diaper changing*
38 *station shall be maintained, repaired, and replaced as necessary*
39 *to ensure safety and ease of use, and shall be cleaned with the*
40 *same frequency as the restroom in which it is located.*

1 (b) (1) Subdivision (a) applies to all new construction and,
2 except as otherwise provided in paragraph (2), to all renovations
3 of bathrooms, for which a permit has been obtained, in which the
4 estimated cost of the new construction or renovation is ten
5 thousand dollars (\$10,000) or more.

6 (2) Subdivision (a) does not apply to a renovation if a local
7 building permitting entity or building inspector determines that
8 the installation of a baby diaper changing station is not feasible
9 or would result in a failure to comply with applicable building
10 standards governing the right of access for persons with
11 disabilities. The permitting entity or building inspector may grant
12 an exemption from the requirements of this section under those
13 circumstances.

14 SEC. 3. Section 114276 of the Health and Safety Code is
15 amended to read:

16 114276. (a) A permanent food facility shall provide clean
17 toilet facilities in good repair for use by employees.

18 (b) (1) (A) A permanent food facility shall provide clean toilet
19 facilities in good repair for consumers, guests, or invitees when
20 there is onsite consumption of foods or when the food facility was
21 constructed after July 1, 1984, and has more than 20,000 square
22 feet of floor space.

23 (B) (i) A permanent food facility that is required to install and
24 maintain at least one baby diaper changing station pursuant to
25 Section 118506 shall provide a clean baby diaper changing station
26 or stations in good repair for consumers, guests, or invitees.

27 (ii) Notwithstanding Section 114395, the first violation of clause
28 (i) shall result in a warning. Each subsequent violation shall
29 constitute an infraction punishable by a fine of not more than two
30 hundred fifty dollars (\$250).

31 (2) Notwithstanding Section 113984.1, toilet facilities that are
32 provided for use by consumers, guests, or invitees shall be in a
33 location where consumers, guests, and invitees do not pass through
34 food preparation, food storage, or utensil washing areas to reach
35 the toilet facilities.

36 (3) For purposes of this section, a building subject to paragraph
37 (1) that has a food facility with more than 20,000 square feet of
38 floor space shall provide at least one separate toilet facility for
39 men and one separate toilet facility for women.

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

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

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

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

12 (e) Any city, county, or city and county may enact ordinances
 13 that are more restrictive than this section.

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

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

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

29 *SEC. 4. Section 118506 is added to the Health and Safety Code,*
 30 *to read:*

31 *118506. (a) (1) A theater or movie house, grocery store, health*
 32 *facility, convention center, sports arena, auditorium, cultural*
 33 *complex, exhibition hall, library, passenger terminal, permanent*
 34 *amusement park structure, restaurant with a seating capacity of*
 35 *at least 50 seats, except as described in subdivision (b), shopping*
 36 *center of more than 25,000 square feet, tourist attraction, or retail*
 37 *store of more than 5,000 square feet shall install and maintain at*
 38 *least one baby diaper changing station if the facility is open to the*
 39 *public. There shall be at least one safe, sanitary, and convenient*
 40 *baby diaper changing station that is accessible to women entering*

1 a restroom provided for use by women and one that is accessible
2 to men entering a restroom provided for use by men, or at least
3 one safe, sanitary, and convenient baby diaper changing station
4 that is accessible to both men and women.

5 (2) This section does not apply to an industrial building or to
6 a nightclub or bar that does not permit anyone who is under 18
7 years of age to enter the premises. This section also does not apply
8 to a restroom located in a health facility if the restroom is intended
9 for the use of one patient or resident at a time.

10 (b) This section shall not be enforceable by a private right of
11 action.

12 (c) (1) Subdivision (a) applies to all new construction, and,
13 except as otherwise provided in paragraph (2), to all renovations
14 of bathrooms for which a permit has been obtained, in which the
15 estimated cost of the new construction or renovation is ten
16 thousand dollars (\$10,000) or more.

17 (2) Subdivision (a) does not apply to a renovation if a local
18 building permitting entity or building inspector determines that
19 the installation of a baby diaper changing station is not feasible
20 or would result in a failure to comply with applicable building
21 standards governing the right of access for persons with
22 disabilities. The permitting entity or building inspector may grant
23 an exemption from the requirements of subdivision (a) under those
24 circumstances.

25 (d) For purposes of this section, the following definitions shall
26 apply:

27 (1) "Health facility" has the meaning set forth in Section 1250.

28 (2) "Restaurant with a seating capacity of at least 50 seats"
29 does not apply to a restaurant if there is centrally located facility
30 with a baby diaper changing station located within 300 feet of the
31 entrance to the restaurant.

32 SEC. 5. The Legislature finds and declares that ensuring safe,
33 sanitary, and convenient baby diaper changing stations are widely
34 available throughout the state is a matter of statewide concern,
35 and not a municipal affair. Therefore, Section 2 of this act is
36 applicable to charter cities, charter counties, and charter cities
37 and counties. The Legislature encourages the University of
38 California to comply with Section 1 of this act.

39 SEC. 6. No reimbursement is required by this act pursuant to
40 Section 6 of Article XIII B of the California Constitution for certain

1 costs that may be incurred by a local agency or school district
2 because, in that regard, this act creates a new crime or infraction,
3 eliminates a crime or infraction, or changes the penalty for a crime
4 or infraction, within the meaning of Section 17556 of the
5 Government Code, or changes the definition of a crime within the
6 meaning of Section 6 of Article XIII B of the California
7 Constitution.

8 However, if the Commission on State Mandates determines that
9 this act contains other costs mandated by the state, reimbursement
10 to local agencies and school districts for those costs shall be made
11 pursuant to Part 7 (commencing with Section 17500) of Division
12 4 of Title 2 of the Government Code.

13 SECTION 1. ~~Section 18941.11 is added to the Health and~~
14 ~~Safety Code, to read:~~

15 ~~18941.11. (a) The commission shall, commencing with the~~
16 ~~next triennial edition of the California Building Standards Code~~
17 ~~(Title 24 of the California Code of Regulations) adopted after~~
18 ~~January 1, 2015, adopt, approve, codify, and publish mandatory~~
19 ~~building standards for the installation of baby diaper changing~~
20 ~~accommodations in restroom facilities in public use areas. These~~
21 ~~building standards shall apply to newly constructed restrooms and~~
22 ~~to renovated restrooms for which the renovation requires a building~~
23 ~~permit and the value of the renovation to the restroom exceeds ten~~
24 ~~thousand dollars (\$10,000).~~

25 ~~(b) The commission may expend funds from the Building~~
26 ~~Standards Administration Special Revolving Fund, upon~~
27 ~~appropriation pursuant to Section 18931.7, for the development~~
28 ~~and the adoption of these standards.~~

29 ~~(c) For purposes of this section, “public use area” means interior~~
30 ~~or exterior rooms, spaces, or elements that are made available to~~
31 ~~the public.~~