

ASSEMBLY BILL

No. 48

Introduced by Assembly Member Mark Stone

December 1, 2014

An act to add Division 8.55 (commencing with Section 22964) to the Business and Professions Code, relating to cigarettes.

LEGISLATIVE COUNSEL'S DIGEST

AB 48, as introduced, Mark Stone. Cigarettes: single-use filters.

Existing law, the Stop Tobacco Access to Kids Enforcement Act, requires all persons engaging in the retail sale of tobacco products to check the identification of tobacco purchasers, to establish the age of the purchaser, if the purchaser reasonably appears to be under 18 years of age. Under existing law, an enforcing agency, as defined, may assess civil penalties against any person, firm, or corporation that sells, gives, or in any way furnishes to another person who is under 18 years of age, any tobacco, cigarette, cigarette papers, any other instrument or paraphernalia that is designed for the smoking or ingestion of tobacco, or products prepared from tobacco. The existing civil penalties range from \$400 to \$600 for a first violation, up to \$5,000 to \$6,000 for a 5th violation within a 5-year period.

Existing law prohibits the sale, distribution, or nonsale distribution of tobacco products directly or indirectly to any person under 18 years of age through the United States Postal Service or through any other public or private postal or package delivery service at locations, including, but not limited to, public mailboxes and mailbox stores. Under existing law, a district attorney, city attorney, or the Attorney General may assess civil penalties against a violator of that provision

of not less than \$1,000 or more than \$2,000 for the first violation and up to \$10,000 for a 5th violation within a 5-year period.

Under existing law, every person, firm, or corporation that knowingly or under circumstances in which it has knowledge, or should otherwise have grounds for knowledge, sells, gives, or in any way furnishes to another person who is under 18 years of age any cigarette, among other specified items, is subject to either a criminal action for a misdemeanor or to a civil action brought by a city attorney, a county counsel, or a district attorney, punishable by a fine of \$200 for the first offense, \$500 for the 2nd offense, and \$1,000 for the 3rd offense.

This bill would state findings and declarations of the Legislature regarding the health and safety hazards to residents of the state related to cigarettes utilizing single-use filters. The bill would prohibit a person or entity from selling, giving, or in any way furnishing to another person of any age in this state a cigarette utilizing a single-use filter made of any material, including cellulose acetate, or other fibrous plastic material, and any organic or biodegradable material. The bill would prohibit that selling, giving, or furnishing, whether conducted directly or indirectly through an in-person transaction or by means of any public or private method of shipment or delivery to an address in this state.

This bill would authorize a city attorney, county counsel, or district attorney to assess a \$500 civil fine against each person determined to have violated those prohibitions in a proceeding conducted pursuant to the procedures of the enforcing agency, as specified.

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

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

1 SECTION 1. Division 8.55 (commencing with Section 22964)
2 is added to the Business and Professions Code, immediately
3 following Section 22963, to read:

4
5 DIVISION 8.55. PROHIBITION ON CIGARETTES
6 UTILIZING SINGLE-USE FILTERS
7

8 22964. (a) Studies published in the peer-reviewed journal
9 Tobacco Control estimate the percentage of smokers who litter to
10 range from 75 percent to 92 percent, for smokers between 21 and

1 25 years of age. It is estimated that 845,500 tons of cigarette butts
2 become litter around the globe each year.

3 (b) Cigarette butts have consistently been the single
4 most-recovered item since collections began among volunteer
5 groups, including the Ocean Conservancy and its International
6 Coastal Cleanup event, which cleans litter in waterways, beaches,
7 and parks in this state.

8 (c) Although the citation rate for littering cigarette waste is
9 annually about five times that of general litter from vehicles, as
10 reported in the Department of Motor Vehicles' citation statistics,
11 cigarette butts remain at the top of the list for litter on our
12 highways.

13 (d) The Department of Transportation has estimated the costs
14 to clean up cigarette butts at forty-one million dollars (\$41,000,000)
15 annually.

16 (e) The City and County of San Francisco has estimated costs
17 for city abatement of cigarette butts at over six million dollars
18 (\$6,000,000) annually.

19 (f) From 2006 to 2008, the American Association of Poison
20 Control Centers reported approximately 12,600 cases of children
21 ingesting cigarettes or cigarette butts. Children under six years of
22 age are especially prone to cigarette butt ingestion.

23 (g) The well-documented and common occurrence of cigarette
24 butt ingestion by domestic animals points to the larger impact that
25 improperly discarded cigarette butts have on our environment and
26 wildlife.

27 (h) As early as the mid-1960s, the Surgeon General of the United
28 States judged cigarette filters to be useless in reducing harm to the
29 average smoker.

30 (i) Banning the sale, gift, or other furnishing of cigarettes
31 utilizing single-use filters is necessary to keep toxic litter out of
32 our state's environment and promote the health and safety of our
33 state's residents.

34 (j) In its cigarette and tobacco products tax evasion report for
35 2012–13, the State Board of Equalization noted that 90.6 percent
36 of cigarette contraband and excise tax evasion was driven by
37 retailer evasion and 9.4 percent by individual consumer evasion.
38 Strong safeguards, including retail inspections, have proven
39 effective in preventing further black market evasion.

1 22965. (a) No person or entity shall sell, give, or in any way
 2 furnish to another person, of any age, in this state, a cigarette
 3 utilizing a single-use filter made of any material including, but not
 4 limited to, cellulose acetate, or other fibrous plastic material, or
 5 any organic or biodegradable material. The prohibition under this
 6 subdivision applies to any direct or indirect transaction, whether
 7 made in-person in this state or by means of any public or private
 8 method of shipment or delivery to an address in this state.

9 (b) The sale, gift, or other furnishing of one to 20 cigarettes
 10 constitutes a single violation of this section.

11 22966. (a) (1) A city attorney, county counsel, or district
 12 attorney may assess a civil fine of five hundred dollars (\$500) for
 13 each violation of Section 22965. Only a city attorney, county
 14 counsel, or district attorney may assess the civil fine against each
 15 person determined to be in violation of Section 22965.

16 (2) Proceedings under this section shall be conducted pursuant
 17 to the procedures of the enforcing agency that are consistent with
 18 Section 131071 of the Health and Safety Code and in accordance
 19 with Article 6 (commencing with Section 11425.10) of Chapter
 20 4.5 of Part 1 of Division 3 of Title 2 of the Government Code.

21 (b) Fine moneys assessed pursuant to this section shall be
 22 deposited in the treasury of the city or county, respectively, of the
 23 city attorney, county counsel, or district attorney who assessed the
 24 fine.

25 22967. A city attorney, county counsel, or district attorney
 26 acting as an enforcement agency, as defined in subdivision (b) of
 27 Section 22950.5, is encouraged, but not required, to develop
 28 guidelines for its agency to conduct tobacco control investigations
 29 of violations of subdivision (a) of Section 22965 concurrent with
 30 investigations of violations of Section 308 of the Penal Code or
 31 Division 8.5 (commencing with Section 22950), conducted in
 32 accordance with Section 22952, or concurrent with investigations
 33 of violations of any tobacco control provisions created by local
 34 ordinance in its jurisdiction.