

AMENDED IN SENATE JUNE 1, 2016
AMENDED IN ASSEMBLY MARCH 31, 2016
AMENDED IN ASSEMBLY MARCH 3, 2016
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1594

Introduced by Assembly Member McCarty
(Coauthor: Senator Leno)

January 6, 2016

An act to repeal and add Section 7597.1 of the Government Code, relating to public postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

AB 1594, as amended, McCarty. Public postsecondary education: prohibition of using tobacco and smoking on campuses.

(1) Existing law establishes the University of California, under the administration of the Regents of the University of California; the California State University, under the administration of the Trustees of the California State University; and the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as the segments of public postsecondary education in this state.

Existing law prohibits public employees or members of the public from smoking any tobacco product inside a public building or in a nearby outdoor area, as specified. Existing law also provides that the governing bodies of the California State University and each community college district have the authority to set enforcement standards relating to smoking on their campuses and to enforce these requirements by citation and fine, as specified. Existing law also authorizes the Trustees

of the California State University to establish rules and regulations for the government and maintenance of the buildings and grounds of the university, and provides that a violation or attempted violation of these rules and regulations is a misdemeanor.

This bill would, beginning January 1, 2018, prohibit ~~smoking~~ *smoking, including the use of an electronic smoking device*, and the use of a tobacco ~~product, including, but not limited to, an e-cigarette,~~ *product* on a campus of the California State University or the California Community Colleges. The bill would authorize the governing bodies of the California State University and each community college district to set standards for the enforcement of that ~~prohibition. The bill would~~ *authorize the campuses prohibition and* to conduct a positive educational campaign to increase the awareness of a tobacco- and smoke-free policy. The bill would authorize the enforcement of this prohibition by a fine, not to exceed \$100, as specified. The bill would require the proceeds of the fine to be allocated for purposes including support of the educational operations of the campus on which the violation occurs, education about and promotion of the policy implemented by the bill, and tobacco use cessation treatment options for students of that campus.

To the extent that these provisions would impose new duties on community college districts, and extend the scope of activities on the buildings and grounds of the California State University that could be charged as misdemeanors, they would constitute a state-mandated local program.

This bill would encourage the Regents of the University of California to adopt and enforce new, or continue to enforce existing, policies substantially similar to those described above.

(2) 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.

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

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

1 SECTION 1. Section 7597.1 of the Government Code is
2 repealed.

3 SEC. 2. Section 7597.1 is added to the Government Code, to
4 read:

5 7597.1. (a) Notwithstanding any other law, beginning January
6 1, 2018, a person shall not smoke or use a tobacco product on a
7 campus of the California State University or the California
8 Community Colleges.

9 (b) The Trustees of the California State University and the
10 governing board of each community college district may do all of
11 the following:

12 (1) Set standards for the enforcement of the prohibition set forth
13 in subdivision (a) for the campuses within their respective
14 jurisdictions and inform employees and students at that campus
15 about those standards.

16 (2) Conduct a positive educational campaign to increase the
17 awareness of a tobacco- and smoke-free policy.

18 (3) (A) Following a positive educational campaign and after
19 January 1, 2018, with respect to a violation of the prohibition set
20 forth in subdivision (a), impose a fine, not to exceed one hundred
21 dollars (\$100). The amount of the fine imposed under this
22 paragraph shall be determined by the Trustees of the California
23 State University or the governing board of the affected community
24 college district, as appropriate.

25 (B) The proceeds of the fines imposed under this paragraph
26 shall be allocated for purposes to include, but not necessarily be
27 limited to, support of the educational operations of the campus on
28 which the violation occurs, education about and promotion of the
29 policy implemented by this section, and tobacco use cessation
30 treatment options for students of that campus.

31 (C) Each college or university may implement policies and
32 procedures, including possible assistance from campus law
33 enforcement, for collecting and processing fines imposed under
34 this paragraph.

35 (D) If a campus adopts the enforcement and fine measures under
36 this paragraph, it shall, and the campuses of the University of
37 California may, post signs stating the campus tobacco use policy
38 in any locations that were specifically designated for smoking or

1 tobacco use before the prohibition set forth in subdivision (a) took
2 effect.

3 (E) ~~No~~A fine shall *not* be imposed under this paragraph unless
4 and until an educational campaign conducted pursuant to paragraph
5 (2) fails to result in substantial compliance with the prohibition
6 set forth in subdivision (a).

7 (c) The Regents of the University of California are encouraged
8 to adopt and enforce new, or continue to enforce existing, policies
9 substantially similar to subdivisions (a) and (b).

10 (d) For purposes of this section, the following definitions apply:

11 (1) ~~To “smoke”~~ “Smoke or “smoking” means ~~either of the~~
12 ~~following:~~ *inhaling, exhaling, burning, or carrying any lighted or*
13 *heated cigar, cigarette, or pipe, or any other lighted or heated*
14 *tobacco or plant product intended for inhalation, whether natural*
15 *or synthetic, in any manner or in any form. “Smoke” or “smoking”*
16 *includes the use of an electronic smoking device that creates an*
17 *aerosol or vapor, in any manner or in any form, or the use of any*
18 *oral smoking device for the purpose of circumventing the*
19 *prohibition of smoking.*

20 ~~(A) To inhale, exhale, burn, or carry any lit or heated cigar,~~
21 ~~cigarette, pipe, or any other product intended for the inhalation of~~
22 ~~tobacco or another plant product, whether natural or synthetic, in~~
23 ~~any manner or in any form.~~

24 ~~(B) To operate an electronic smoking device that creates an~~
25 ~~aerosol or vapor in any manner or in any form, or any other oral~~
26 ~~device for the purpose of circumventing a prohibition against~~
27 ~~smoking.~~

28 (2) “Use a tobacco product” means *inhaling, smoking, chewing,*
29 *dipping, or any other assimilation into the body of tobacco.*

30 ~~(3)~~

31 (2) (A) “Tobacco product” means ~~all forms of tobacco,~~
32 ~~including smokeless tobacco, cigarettes, cigars, pipes, hookahs,~~
33 ~~and e-cigarettes. any of the following:~~

34 (i) *A product containing, made, or derived from tobacco or*
35 *nicotine that is intended for human consumption, whether smoked,*
36 *heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or*
37 *ingested by any other means, including, but not limited to,*
38 *cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, or*
39 *snuff.*

1 (ii) *An electronic device that delivers nicotine or other vaporized*
2 *liquids to the person inhaling from the device, including, but not*
3 *limited to, an electronic cigarette, cigar, pipe, or hookah.*

4 (iii) *Any component, part, or accessory of a tobacco product,*
5 *whether or not sold separately.*

6 (B) *“Tobacco product” does not include a product that has*
7 *been approved by the United States Food and Drug Administration*
8 *for sale as a tobacco cessation product or for other therapeutic*
9 *purposes where the product is marketed and sold solely for such*
10 *an approved purpose.*

11 (e) The governing bodies of the California State University or
12 a community college district may continue and enforce a tobacco
13 use policy adopted before January 1, 2017, until the prohibition
14 set forth in subdivision (a) takes effect.

15 SEC. 3. No reimbursement is required by this act pursuant to
16 Section 6 of Article XIII B of the California Constitution for certain
17 costs that may be incurred by a local agency or school district
18 because, in that regard, this act creates a new crime or infraction,
19 eliminates a crime or infraction, or changes the penalty for a crime
20 or infraction, within the meaning of Section 17556 of the
21 Government Code, or changes the definition of a crime within the
22 meaning of Section 6 of Article XIII B of the California
23 Constitution.

24 However, if the Commission on State Mandates determines that
25 this act contains other costs mandated by the state, reimbursement
26 to local agencies and school districts for those costs shall be made
27 pursuant to Part 7 (commencing with Section 17500) of Division
28 4 of Title 2 of the Government Code.