

**ASSEMBLY BILL**

**No. 2272**

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**Introduced by Assembly Member Thurmond**

February 18, 2016

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An act to add Section 144.9 to the Labor Code, relating to occupational safety and health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2272, as introduced, Thurmond. Occupational safety and health standards: plume.

Under existing law, the Occupational Safety and Health Standards Board within the Department of Industrial Relations promulgates and enforces occupational safety and health standards for the state, including standards dealing with toxic materials and harmful physical agents. A violation of these standards and regulations under specific circumstances is a crime.

This bill would require the board to adopt standards to protect health care personnel and patients from plume, defined as noxious airborne contaminants generated as byproducts of the use of specific devices during surgical, diagnostic, or therapeutic procedures. The bill would require the board, in adopting these standards, to take into consideration and use as a benchmark certain standards adopted by specified organizations. The bill would require the board to use as the mandated requirement for plume scavenging systems recommendations of the federal Occupational Safety and Health Administration or National Institute for Occupational Safety and Health, where the board determines those recommendations are more effective in the evacuation of plume and would be more protective of occupational health than the described standards.

The bill would provide that compliance with general room ventilation standards or the use of surgical masks or respirators does not satisfy the requirements for protection from surgical plumes under these provisions.

By expanding the definition of an existing crime, this bill would impose a state-mandated local program.

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 no reimbursement is required by this act for a specified reason.

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 144.9 is added to the Labor Code, to  
2 read:

3 144.9. (a) As used in this section:

4 (1) "Electrocautery device" means a device that is electrically  
5 heated to cut, ablate, or coagulate human tissue for therapeutic  
6 purposes.

7 (2) "Electrosurgical device" means a device that uses a radio  
8 frequency electric current passing through the patient to cut, ablate,  
9 or coagulate human tissue for therapeutic purposes.

10 (3) "Energy-based device" means a device that uses energy to  
11 ablate, cauterize or mechanically manipulate target human tissue  
12 including lasers, electrosurgical generators, broadband light  
13 sources, ultrasonic instruments, plasma generators, bone saws, and  
14 drills.

15 (4) "Plume" means noxious airborne contaminants generated  
16 as byproducts of the use of energy-based devices, electrosurgical  
17 devices, electrocautery devices, or mechanical tools during surgical,  
18 diagnostic, or therapeutic procedures.

19 (5) "Plume scavenging system" means smoke evacuators, laser  
20 plume evacuators, plume scavengers, and local exhaust ventilators  
21 that capture and neutralize at least 95 percent of plume at the site  
22 of origin and before plume can make ocular contact or contact  
23 with the respiratory tract of health care personnel or patients.

1 (b) (1) The board shall, by June 1, 2018, adopt an occupational  
2 safety and health standard requiring a health facility, as defined  
3 in subdivision (a) of Section 1250 of the Health and Safety Code,  
4 to evacuate or remove plume through the use of a plume  
5 scavenging system in all settings that employ techniques that  
6 involve the creation of plume. In developing the standard, the  
7 board shall take into consideration and use as a benchmark the  
8 standards titled “Systems for evacuation of plume generated by  
9 medical devices” (ISO 16571) adopted by the International  
10 Organization for Standardization and the standards titled “Plume  
11 scavenging in surgical, diagnostic, therapeutic, and aesthetic  
12 settings” (CSA Z305.13-13) adopted by the CSA Group. Where,  
13 in the determination of the board, recommendations of the federal  
14 Occupational Safety and Health Administration or National  
15 Institute for Occupational Safety and Health are more effective in  
16 the evacuation of plume and would be more protective of  
17 occupational health than the ISO or CSA standards, the board shall  
18 use those federal recommendations as the mandated requirement  
19 for plume scavenging systems.

20 (2) The board may consider input from health facilities,  
21 practicing physicians from affected specialties, labor and specialty  
22 organizations representing affected registered nurses, labor and  
23 specialty organizations representing other affected health care  
24 personnel, and other stakeholders.

25 (c) Nothing in this section alters, amends, expands, or reduces  
26 existing general room ventilation standards or requirements. These  
27 plume scavenging standards are in addition to general room  
28 ventilation standards or requirements, and compliance with general  
29 room ventilation standards shall not satisfy the requirements of  
30 this section.

31 (d) The use of surgical masks or respirators shall not satisfy the  
32 requirement of this section.

33 SEC. 2. No reimbursement is required by this act pursuant to  
34 Section 6 of Article XIII B of the California Constitution because  
35 the only costs that may be incurred by a local agency or school  
36 district will be incurred because this act creates a new crime or  
37 infraction, eliminates a crime or infraction, or changes the penalty  
38 for a crime or infraction, within the meaning of Section 17556 of  
39 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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