

AMENDED IN SENATE AUGUST 15, 2016

AMENDED IN SENATE AUGUST 1, 2016

AMENDED IN SENATE JUNE 14, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2272

Introduced by Assembly Member Thurmond

February 18, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2272, as amended, 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. *Under existing law, the Division of Occupational Safety and Health is required to enforce all occupational safety and health standards, as specified.* A violation of these standards and regulations under specific circumstances is a crime.

This bill would require the board, by June 1, 2018, 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. *would, by June 1, 2017, require the division to convene an advisory committee to develop a regulation that requires a health facility to evacuate or remove plume through the use of a plume scavenging system*

in all settings that employ techniques that involve the creation of plume and would authorize certain entities and people to be on the advisory committee, including, among others, practicing physicians and surgeons from affected specialties. The bill would require the board, division, in adopting these standards, developing the regulation to take into consideration and use as a benchmark do certain things, including evaluating the use of certain standards adopted by specified organizations. organizations as a benchmark. The bill would also require the board to use as the mandated requirement for plume scavenging systems recommendations of division, when developing the proposed regulation, to take into consideration recommendations on the evacuation of plume from 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. Health. The bill would, by June 1, 2018, require the division to submit to the board the proposed regulation. The bill would, by July 1, 2019, require the board to adopt the proposed regulation.

The bill would require the board, as part of the standards, to include a requirement that employers provide training to all health care workers involved in procedures that involve the creation of plume, as specified.

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. *The bill would provide that the use of respirators does not satisfy the requirements for protection from surgical plumes under these provisions, except as specified.* The bill would require the manufacturer of a plume scavenging system to provide evidence that the system meets specified minimum requirements when installed, operated, and maintained in accordance with the manufacturer's instructions.

The bill would specify that these provisions do not limit the authority of the division to develop, or limit the authority of the board to adopt, a regulation with a broader scope or broader application than required by 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) “Division” means the Division of Occupational Safety and
5 Health.

6 (1)

7 (2) “Electrocautery device” means a device that is electrically
8 heated to cut, ablate, or coagulate human tissue for therapeutic
9 purposes.

10 (2)

11 (3) “Electrosurgical device” means a device that uses a radio
12 frequency electric current passing through the patient to cut, ablate,
13 or coagulate human tissue for therapeutic purposes.

14 (3)

15 (4) “Energy-based device” means a device that uses energy to
16 ablate, cauterize, or mechanically manipulate target human tissue
17 including lasers, electrosurgical generators, broadband light
18 sources, ultrasonic instruments, plasma generators, bone saws, and
19 drills.

20 (5) “Health facility” means a health facility as defined in
21 subdivision (a) of Section 1250 of the Health and Safety Code.

22 (4)

23 (6) “Plume” means noxious airborne contaminants generated
24 as byproducts of the use of energy-based devices, electrosurgical
25 devices, electrocautery devices, or mechanical tools during surgical,
26 diagnostic, or therapeutic procedures.

27 (5)

28 (7) “Plume scavenging system” means smoke evacuators, laser
29 plume evacuators, plume scavengers, and local exhaust ventilators
30 that, when used in accordance with the manufacturer’s instructions,
31 conform to the general requirement of the 2014 ISO Standard
32 16571 to remove and neutralize at least 90 percent of plume at the
33 site of origin and before plume can make ocular contact or contact

1 with the respiratory tract of health care personnel or patients; that
2 capture and neutralize plume at the site of origin and before plume
3 can make ocular contact or contact with the respiratory tract of
4 employees.

5 (b) (1) The board shall, by division, by June 1, 2017, shall
6 convene an advisory committee to develop a regulation that
7 requires a health facility to evacuate or remove plume through the
8 use of a plume scavenging system in all settings that employ
9 techniques that involve the creation of plume. The advisory
10 committee may include health facilities, practicing physicians and
11 surgeons from affected specialties, registered nurses and other
12 affected health care personnel, labor and specialty organizations
13 representing affected registered nurses, labor and specialty
14 organizations representing other affected health care personnel,
15 and other stakeholders.

16 (2) By June 1, 2018, adopt an occupational safety and health
17 standard requiring a health facility, as defined in subdivision (a)
18 of Section 1250 of the Health and Safety Code, to evacuate or
19 remove plume through the use of a plume scavenging system in
20 all settings that employ techniques that involve the creation of
21 plume. In the division shall submit to the board the proposed
22 regulation requiring a health facility to evacuate or remove plume
23 through the use of a plume scavenging system in all settings that
24 employ techniques that involve the creation of plume.

25 (3) In developing the standard, regulation, the board division
26 shall take into consideration and use as a benchmark do all of the
27 following:

28 (A) Evaluate using as a benchmark the standards titled "Systems
29 for evacuation of plume generated by medical devices" (ISO
30 16571) adopted by the International Organization for
31 Standardization and the standards titled "Plume scavenging in
32 surgical, diagnostic, therapeutic, and aesthetic settings" (CSA
33 Z305.13-13) adopted by the CSA Group. Where, in the
34 determination of the board, recommendations of the

35 (B) Take into consideration recommendations on the evacuation
36 of plume from the federal Occupational Safety and Health
37 Administration or and National Institute for Occupational Safety
38 and Health are more effective in the evacuation of plume and would
39 be more protective of occupational health than the ISO or CSA

1 standards, the board shall use those federal recommendations as
2 the mandated requirement for plume scavenging systems. *Health.*

3 (2) As part of the standard, the board shall include

4 (C) *Take into consideration the standards titled “Systems for*
5 *evacuation of plume generated by medical devices” (ISO 16571)*
6 *adopted by the International Organization for Standardization in*
7 *developing a standard establishing how much plume shall be*
8 *captured by a plume scavenging system.*

9 (D) *Include a requirement in the regulation for employers to*
10 *provide training and education to all health care workers that will*
11 *participate foreseeably participating in procedures that involve*
12 *the creation of plume. The training shall include, but not be limited*
13 *to, the appropriate use of the plume scavenging systems and*
14 *equipment utilized by the facility, and general education on the*
15 *contents of plume, the circumstances in which it is generated, and*
16 *the associated health and safety hazards. hazards, and appropriate*
17 *use of the plume scavenging equipment and systems utilized by the*
18 *health facility. The training shall be designed to provide an*
19 *opportunity for interactive questions and answers with a person*
20 *knowledgeable about occupational exposure to plume and the*
21 *specific equipment utilized utilized to scavenge plume.*

22 (3) In developing standards, the board may consider input from
23 health facilities, practicing physicians from affected specialties,
24 registered nurses and other affected health care personnel, labor
25 and specialty organizations representing affected registered nurses,
26 labor and specialty organizations representing other affected health
27 care personnel, and other stakeholders.

28 (c) *The board shall, by July 1, 2019, adopt the proposed*
29 *regulation of the division, except as specified in subdivision (f),*
30 *requiring a health facility to evacuate or remove plume through*
31 *the use of a plume scavenging system in all settings that employ*
32 *techniques that involve the creation of plume.*

33 (e)

34 (d) (1) Nothing in this section alters, amends, expands, or
35 reduces existing general room ventilation standards or
36 requirements. These plume scavenging standards are in addition
37 to general room ventilation standards or requirements, and
38 compliance with general room ventilation standards shall not satisfy
39 the requirements of this section.

1 (2) Evidence that the plume scavenging system conforms to the
2 minimum requirements of this section when installed, operated,
3 and maintained in accordance with the manufacturer's instructions,
4 shall be provided by the manufacturer.

5 ~~(d)~~

6 (e) The use of surgical masks ~~or respirators~~ shall not satisfy the
7 requirements of this section. *The use of respirators shall not satisfy*
8 *the requirements of this section except when, due to medical*
9 *necessity, the plume scavenging system is not able to be located*
10 *where it effectively captures plume.*

11 (f) *This section shall not limit the authority of the division to*
12 *develop a regulation, or the authority of the board to adopt a*
13 *regulation, that is broader in scope or broader in application than*
14 *required by this section.*

15 SEC. 2. No reimbursement is required by this act pursuant to
16 Section 6 of Article XIIIIB of the California Constitution because
17 the only costs that may be incurred by a local agency or school
18 district will be incurred because this act creates a new crime or
19 infraction, eliminates a crime or infraction, or changes the penalty
20 for a crime or infraction, within the meaning of Section 17556 of
21 the Government Code, or changes the definition of a crime within
22 the meaning of Section 6 of Article XIII B of the California
23 Constitution.