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# SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair  
2015 - 2016 Regular

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**Bill No:** AB 1594  
**Author:** McCarty  
**Version:** June 1, 2016  
**Urgency:** No  
**Consultant:** Lynn Lorber  
**Hearing Date:** June 8, 2016  
**Fiscal:** Yes

**Subject:** Public postsecondary education: prohibition of using tobacco and smoking on campuses

## SUMMARY

This bill prohibits, beginning January 1, 2018, smoking or the use of tobacco products on a campus of the California State University or the California Community Colleges.

## BACKGROUND

Existing law:

- 1) Prohibits smoking inside public buildings or in outdoor areas within 20 feet of a main exit, entrance or window of a public building, but establishes that this does not preempt local entities and campuses of the California Community Colleges (CCC), California State University (CSU), and the University of California (UC) from adopting and enforcing more restrictive smoking and tobacco control policies. (Government Code § 7597)
- 2) Authorizes the governing bodies of the CSU, UC, and each community college district to set enforcement standards for their local campuses and impose fines up to \$100, as determined by the local governing body. Existing law requires funds from fines to be allocated to include, but not be limited to, the designated enforcement agency, education and promotion of the policy, and tobacco cessation treatment options. Existing law requires, if a campus adopts the enforcement and fine measures (and authorizes campuses of the UC) to post signs stating the tobacco use policy on campus, as follows:
  - a) The locations at which smoking or tobacco use is prohibited on campus.
  - b) The locations at which smoking or tobacco use is permitted on campus.

Requires, if a campus adopts the enforcement and fine measures (and authorizes campuses of the UC) to inform employees and students of the tobacco use policy and enforcement measures employed on the campus. (GC § 7597.1)

- 3) Authorizes a person to smoke in any other outdoor area of a public building unless otherwise prohibited by state law or local ordinance, and a sign describing the prohibition is posted. (GC § 7598)
- 4) Prohibits smoking in a private residence that is licensed as a family day care home, or in areas of the day care home where children are present, and prohibits smoking on the premises of a licensed day care center. (Health & Safety Code § 1596.795)
- 5) Prohibits smoking or the use of tobacco, or any product containing tobacco or nicotine products, by K-12 students while on campus or at a school-sponsored activity. (Education Code § 48901)

## **ANALYSIS**

This bill prohibits, beginning January 1, 2018, smoking or the use of tobacco products on a campus of the California State University (CSU) or the California Community Colleges (CCC). Specifically, this bill:

- 1) Beginning January 1, 2018, prohibits a person from smoking or using a tobacco product on a campus of the CSU or the CCC.
- 2) Authorizes the CSU Trustees and the governing board of each community college district to do all of the following:
  - a) Set standards for the enforcement of the smoking and tobacco use prohibition for the campuses within their respective jurisdictions and inform employees and students at that campus about those standards.
  - b) Conduct a positive educational campaign to increase the awareness of a tobacco and smoke-free policy.
  - c) Impose a fine up to \$100, following a positive educational campaign and after January 1, 2018, with respect to a violation of the smoking and tobacco use prohibition.
    - i) Requires the amount of the fine to be determined by the CSU Trustees or the governing board of the affected community college district, as appropriate.
    - ii) Requires the proceeds of the fines to be allocated for purposes to include but not limited to, support of the educational operations of the campus on which the violation occurs, education about and promotion of the smoke- and tobacco-free policy, and tobacco use cessation treatment options for students of that campus.
- 3) Authorizes each college or university to implement policies and procedures, including possible assistance from campus law enforcement, for collecting and processing fines.

- 4) Requires a campus that adopts the enforcement and fine measures, and authorizes campuses of the University of California (UC), to post signs stating the campus tobacco use policy in any locations that were specifically designated for smoking or tobacco use before the prohibition on tobacco use took effect.
- 5) Prohibits a fine from being imposed unless and until an educational campaign fails to result in substantial compliance with the prohibition on tobacco use.
- 6) Encourages the UC Regents to adopt and enforce new, or continue to enforce existing, policies that prohibit the use of tobacco.
- 7) Authorizes the governing bodies of the California State University (CSU) or a community college district to continue and enforce a tobacco use policy adopted before January 1, 2017, until the prohibition on tobacco use pursuant to this bill takes effect (January 1, 2018).
- 8) Provides the following definitions:
  - a) “Smoke or smoking” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, whether natural or synthetic, in any manner or in any form. This bill provides that “smoke” or “smoking” includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking.
  - b) “Tobacco product” means any of the following:
    - i) A product containing, made or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, or snuff.
    - ii) An electronic device that delivers nicotine or other vaporized liquids to the person inhaling from the device, including but not limited to an electronic cigarette, cigar, pipe or hookah.
    - iii) Any component, part, or accessory of a tobacco product, whether or not sold separately.
  - c) “Tobacco product” does *not* include a product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where the product is marketed and sold solely for such an approved purpose.

## STAFF COMMENTS

- 1) **Need for the bill.** According to the author, “Current smoking policies at the California Community College (CCC) and the California State University (CSU) campuses are a variation of the following: smoking is not allowed within 25 feet of building doorways, windows, breezeways, air intake, and vented areas. Existing law allows each community college district to determine if they would implement a smoke and tobacco ban. The CSU system allows each individual campus to change the smoking policy as they found appropriate to their campus’ needs. The range of policies from the various campuses can create confusion, and is a source of frustration and concern for proponents of tobacco free campuses.”
- 2) **Current policies.** Existing law authorizes campuses of the CCC, the CSU, and the UC to adopt and enforce policies that restrict smoking and tobacco beyond the prohibition on smoking inside public buildings or in outdoor areas within 20 feet of a main exit, entrance or window of a public building.

The CSU prohibits smoking in all CSU buildings or leased spaces. The Academic Senate of the CSU passed a resolution in January 2013, requesting the CSU Chancellor to take necessary steps to modify the CSU systemwide policy to create a smoke-free system, including all facilities. According to the CSU, its systemwide smoke-free campus policy is nearing completion and should be adopted in the near future. As of August 1, 2013, CSU Fullerton became the first (and only) 100% smoke-free campus in the system.

The CCC does not have a systemwide policy in place. According to the CCC Chancellor’s office, 18 of the 72 community college districts, comprising 37 campuses, currently have smoke-free policies.

As of January 1, 2014, the University of California (UC) has in place a systemwide smoke- and tobacco-free policy, affecting all UC campuses, labs and centers.

- 3) **Practical effect.** The UC already has a systemwide smoke- and tobacco-free policy, and the CSU reportedly will have a systemwide smoke-free policy in place in the near future. Eighteen of the 72 community college districts currently have smoke-free policies. The UC’s policy appears to be consistent with the provisions of this bill. It remains to be seen if CSU’s policy will be consistent with the provisions of this bill. Staff has not reviewed the 18 policies of the CCC districts. This bill would essentially require the remaining CCC districts to adopt a policy, and require all CCCs and the CSU to ensure their existing policies meet the criteria of this bill.
- 4) **Enforcement standards.** This bill authorizes the governing bodies of the CSU, UC, and each community college district to set enforcement standards for their local campuses and impose fines up to \$100. This bill prohibits a fine from being imposed unless and until an educational campaign fails to result in substantial compliance with the prohibition on the use of tobacco. Enforcement standards are important to ensure that the prohibition on the use of tobacco is uniformly and

fairly enforced at each campus. **Staff recommends an amendment** to prohibit the imposition of a fine unless and until the system (California State University (CSU) or California Community College (CCC)) has established standards for the enforcement of the prohibition on the use of tobacco, and informed employees and students about those standards.

- 5) ***Fiscal impact.*** According to the Assembly Appropriations Committee analysis, this bill imposes the following costs:
- a) Eighteen of the 72 community college districts currently have smoke-free policies. Assuming a cost of \$2,000 per district for the remaining 54 districts to adopt a policy for their campuses, one-time state reimbursable costs would be \$108,000 (GF-Prop 98). Other costs districts may incur—for conducting an educational campaign, providing enforcement and posting signs—would be discretionary and therefore are not state-reimbursable.
  - b) No cost to University of California (UC), as the system's current policy, adopted in January 2014, is consistent with the requirements of this bill.
  - c) Development of CSU's systemwide smoke-free campus policy is nearing completion and will soon be adopted. Furthermore, as of August 1, 2013, CSU Fullerton became the first 100% smoke-free campus in the system. The provisions of Fullerton's policy are similar to this measure.
- 6) ***Related legislation.*** SB 5 x2 (Leno, Ch. 7, 2015) recasts and broadens the definition of “tobacco product” in current law to include electronic cigarettes, as specified; extends current restrictions and prohibitions against the use of tobacco products to electronic cigarettes; extends current licensing requirements for manufacturers, importers, distributors, wholesalers, and retailers of tobacco products to electronic cigarettes; and requires electronic cigarette cartridges to be child-resistant.

SB 8 x2 (Liu) extends current tobacco use prevention funding eligibility and requirements for county offices of education and school districts to include charter schools, broadens the definition of products containing tobacco and nicotine, and prohibits their use in specified areas of schools and school districts, regardless of funding. SB 8 x2 was never heard in the Assembly.

SB 7 x2 (Hernandez, Ch. 8, 2015) increases the minimum legal age to purchase or consume tobacco from 18 to 21 and makes additional conforming changes to restrictions and enforcement mechanisms in current law.

## SUPPORT

American Academy of Pediatrics, California  
 American Cancer Society Cancer Action Network  
 American Heart Association/American Stroke Association  
 American Lung Association in California  
 California Chapter of the American College of Emergency Physicians

California Medical Association  
California Optometric Association  
Campuses Organized and United for Good Health (COUGH)  
Cerritos Community College District  
First 5 Association of California  
Los Rios Community College District  
Santa Ana College, Health & Wellness Center  
Santiago Canyon College

**OPPOSITION**

None received.

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