
SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

Bill No: AB 10 **Hearing Date:** June 28, 2017
Author: Cristina Garcia
Version: May 30, 2017
Urgency: No **Fiscal:** Yes
Consultant: Brandon Darnell

Subject: Feminine hygiene products: public school restrooms

SUMMARY

This bill requires a public school maintaining any combination of grades 6 to grade 12, inclusive, that meets the 40-percent pupil poverty threshold required to operate a federal Title I schoolwide program, to stock at least 50 percent of the school's restrooms with feminine hygiene products at all times and to provide those products at no charge.

BACKGROUND

Existing law:

- 1) Requires public and private schools enrolling students from Kindergarten through 12th grade to ensure that every restroom is maintained and cleaned regularly, fully operational and stocked at all times with toilet paper, soap and paper towels or functional hand dryers. (EC § 35292.5)
- 2) Requires school districts, as a condition of participation in the school facilities program, to establish a facilities inspection system to ensure that each of its schools is maintained in good repair, as defined, through the use of the Facility Inspection Tool created by the Office of Public School Construction or a local evaluation instrument that meets the same criteria. (EC § 17002)
- 3) Defines "Good Repair" for school facilities to mean that, among other items, restrooms and restroom fixtures are functional and appear to be maintained and stocked with supplies regularly. (EC § 17002)
- 4) Requires that the safety, cleanliness, and adequacy of school facilities, including any needed maintenance to ensure good repair, be reported on the School Accountability Report Card. (EC § 33126)
- 5) Requires that a pupil be permitted to participate in sex-segregated school programs and activities, including athletic teams and competitions, and use facilities consistent with his or her gender identity, irrespective of the gender listed on the pupil's records. (EC § 221.5)

ANALYSIS

This bill requires a public school maintaining any combination of grades 6 to grade 12, inclusive, that meets the 40-percent pupil poverty threshold required to operate a

federal Title I schoolwide program, to stock at least 50 percent of the school's restrooms with feminine hygiene products (FHPs) at all times and to provide those products at no charge. The bill defines FHP to mean tampons and sanitary napkins for use in connection with the menstrual cycle.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "Menstrual products, tampons and pads, are a medical necessity for all people that menstruate. There is no other set of products that one gender has no choice, but to use once a month for forty years of their life. Menstrual products are legally recognized in a court case in Illinois in 1989. In recognition of their necessity, the state of California provides menstrual products for free in correctional facilities. As a state we need to do more. Not having access to these vital medical necessities creates an additional barrier to a young girl's education. Young girls sometimes miss school because of a lack of access to these products. A pilot project to provide menstrual products for free in New York City was done last year in 25 middle schools and high schools and the schools saw a 2.4% increase in attendance. Providing tampons and pads is about equity and social justice. We provide toilet paper in the bathrooms of schools and tampons should be no different. This bill seeks to increase access to menstrual products to girls and young women who need it most by providing them for free in public schools grade 6 to grade 12 that receive Title 1 funding."
- 2) ***Access to female hygiene products for vulnerable populations.*** According to a June 20, 2016 committee report by Committee on Women's Issues for the Council of the City of New York, "Globally, approximately 52% of the female population (26% of the total population) is of reproductive age. Most of these women and girls will menstruate each month for between two and seven days. Menstruation is a natural part of the reproductive cycle, in which blood is lost through the vagina. However, in most parts of the world, it remains taboo and is rarely addressed. As a result of the stigmas associated with menstruation, the practical challenges of menstrual hygiene are made even more difficult by various socio-cultural factors. To manage menstruation hygienically, it is essential that women and girls have access to feminine hygiene products. Feminine hygiene products are vital for the health, well-being and full participation of women and girls. Inadequate menstrual hygiene management is associated with both health and psycho-social issues, particularly among low-income women. It has been reported that a lack of access to feminine hygiene products can cause emotional duress, physical infection and disease, and can lead to cervical cancer. Access to feminine hygiene products has proven to be limited for vulnerable populations. Currently the cost of feminine hygiene products (FHP) are not included in health insurance or flexible spending accounts, nor in public benefits programs such as the Supplemental Nutrition Assistance Program (SNAP) or Women, Infants, and Children (WIC) benefits."
- 3) ***Dangers of toxic shock syndrome.*** While some pupils who menstruate may choose to reduce the cost of FHPs by reducing the time between changing the product, this choice can have deathly health consequences caused by Toxic Shock Syndrome. In 1980 the Center for Disease Control established a close

association between incidents of Toxic Shock Syndrome (TSS) and tampon use. The potentially fatal disease causes fever, shock, low blood pressure, skin rashes and liver and kidney abnormalities. In 1982 the Federal Drug Administration (FDA) required that menstrual tampon packages contain a brief statement alerting consumers to the dangers of TSS, including the risk to all women using tampons during their menstrual period, especially the reported higher risks to women under 30 years of age and teenage girls. The package warnings were also to include information on the incidence of TSS of 6 to 17 per 100,000 menstruating women and girls per year and the risk of death from contracting TSS.

- 4) **Other jurisdictions.** New York City adopted legislation in July 2016 requiring the Department of Education (CDE) to make free feminine hygiene products (FHPS) available to students in the bathrooms of school buildings, in which there are female students in grades 6 to 12. The intent of the legislation was to ensure that students have the support they need to focus on learning and feel comfortable in the classroom. Supporters also pointed out that increasing access to basic FHPs demonstrates a commitment to advancing gender equity. This legislation followed a successful pilot program during the 2015-16 school year, in which the City placed 380 dispensers in 25 middle and high schools. The City reported a 2.4 percent increase in school attendance during the pilot program year. Other jurisdictions have proposed legislation to provide free menstrual hygiene products in public buildings and/or schools, including New York State in 2015 and Wisconsin in 2015. Neither of these bills was successful. Five states currently have similar measures pending before their legislative bodies, including Illinois, Maryland, Connecticut, Tennessee, and South Carolina.
- 5) **Fiscal impact.** According to the Assembly Appropriations Committee, there would be “minor and absorbable costs to the CDE to update the Office of Public School Construction Facility Inspection Tool” and “cost pressures in the hundreds of millions annually, due to reimbursable mandate costs to schools,” as “there are approximately 3,093 schools that will need to stock at least 50 percent of restrooms with free feminine hygiene products.”
- 6) **Related and previous legislation.** AB 9 (C. Garcia, 2017), would exempt the sale of tampons, sanitary napkins, menstrual sponges, and menstrual cups from sales taxes.

AB 1561 (C. Garcia) of the 2015-2016 Session, which was vetoed by the Governor, would have exempted the sale of tampons, sanitary napkins, menstrual sponges, and menstrual cups from sales taxes during the period from 2017 through 2022.

SB 971 (Huff, Chapter 923, Statutes of 2004) eliminated the requirement, established by SB 892 in 2003, for schools to submit reports to the Office of Public School Construction on the responses to restroom maintenance complaint forms.

SB 550 (Vasconcellos, Chapter 900, Statutes of 2004) authorized school districts to use the uniform complaint process to help identify and resolve any deficiencies

related to instructional materials, the condition of a facility that is not maintained in a clean or safe manner or in good repair, and teacher vacancy or misassignment.

SB 892 (Murray, Chapter 909, Statutes of 2003) established the requirement that every public and private school have restroom facilities that are open as prescribed during school hours, and at all times to keep every restroom maintained and cleaned regularly, fully operational, and stocked with soap and paper supplies.

SUPPORT

9 to 5 California

Alliance of Californians for Community Empowerment

American Association of University Women

American Federation of State, County and Municipal Employees

American Civil Liberties Union of California

American Congress of Obstetricians and Gynecologists

A Stronger California: Securing Economic Opportunity for all Women

California Asset Building Coalition

California Child Care Resource and Referral Network

California Domestic Workers Coalition

California Employment Lawyers Association

California Health+ Advocates

California Immigrant Policy Center

California Latinas for Reproductive Justice

California Partnership

California School Nurses Organization

California State PTA

California Teachers Association

California Women's Law Center

California Work and Family Coalition

Center for Popular Democracy

Child Care Law Center

Children's Defense Fund – California

City and County of San Francisco, Department on the Status of Women

Common Sense Kids Action

Courage Campaign

Downtown Women's Action Coalition

Equal Rights Advocates

Legal Aid Society Employment Law Center

Mujeres Unidas y Activas

National Association of Social Workers, California Chapter

National Council of Jewish Women, Los Angeles

Opportunity Institute

Parent Voices

Planned Parenthood

Raising California Together

San Francisco Living Wage Coalition

Tradeswomen, Inc.

Voices of Progress
Western Center on Law & Poverty
Women's Foundation of California

OPPOSITION

California Right to Life Committee, Inc.

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