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HEALTH AND SAFETY CODE - HSC

DIVISION 103. DISEASE PREVENTION AND HEALTH PROMOTION [104100 - 106036] (*Division 103 added by Stats. 1995, Ch. 415, Sec. 5.*)

PART 3. RISK REDUCTION [104350 - 104895] (*Part 3 added by Stats. 1995, Ch. 415, Sec. 5.*)

CHAPTER 1. Tobacco Control [104350 - 104559.5] (*Chapter 1 added by Stats. 1995, Ch. 415, Sec. 5.*)

ARTICLE 1. Tobacco Use Prevention [104350 - 104495] (*Article 1 added by Stats. 1995, Ch. 415, Sec. 5.*)

104350. (a) The Legislature finds and declares as follows:

- (1) Smoking is the single most important source of preventable disease and premature death in California.
- (2) More than 30 percent of coronary heart disease cases are attributable to cigarette smoking.
- (3) More than 30 percent of all annual cancer deaths are attributable to smoking, with lung cancer now the leading cancer killer in women as well as men.
- (4) Smoking is responsible for one-quarter of all deaths caused by fire.
- (5) Involuntary smoking is a cause of disease, including lung cancer, in healthy nonsmokers.
- (6) More than 80 percent of chronic obstructive lung diseases including emphysema and chronic bronchitis are attributable to smoking.
- (7) Tobacco-related disease places a tremendous financial burden upon the persons with the disease, their families, the health care delivery system, and society as a whole. California spends five billion six hundred million dollars (\$5,600,000,000) a year in direct and indirect costs on smoking-related illnesses.
- (8) The elimination of smoking is the number one weapon against four of the five leading causes of death in California.
- (9) Keeping children and young adults from beginning to use tobacco and encouraging all persons to quit tobacco use shall be the highest priority in disease prevention for the State of California. More than 60 percent of all smokers begin smoking by the age of 14, and 90 percent begin by the age of 19.
- (10) The State of California shall play a leading role in promoting a smoke-free society by the year 2000 and thereby supporting the National Health Status Objectives for the year 2000 relating to smoking and tobacco use.

(b) It is the intent of the Legislature, therefore, to require the department, local lead agencies, and the State Department of Education to cooperatively and individually conduct activities directed at the prevention of tobacco use and tobacco-related diseases. The campaign shall focus on health promotion, disease prevention, and risk reduction, utilizing a "wellness" perspective that encourages self-esteem and positive decisionmaking techniques. It is also the intent of the Legislature that, for the purpose of program planning and program evaluation, the department provide data and technical information on tobacco-related diseases, tobacco use and its consequences, and effective personal and community interventions to prevent tobacco use.

(*Added by Stats. 1995, Ch. 415, Sec. 5. Effective January 1, 1996.*)

104355. The following definitions shall apply to this article:

(a) "Grantee" means any public or private nonprofit entity approved by the department or the State Department of Education to receive funds pursuant to this article. Grantees may include, but are not limited to, hospitals, community clinics, local health

departments, voluntary health organizations, Indian tribes, colleges and universities, county offices of education, school districts, health maintenance organizations, professional health associations, and professional health education associations.

(b) "Tobacco-related disease" means any of the following:

- (1) Coronary heart disease.
- (2) Cerebrovascular disease.
- (3) Cancer, including cancers of the lung, larynx, esophagus, bladder, pancreas, and mouth.
- (4) Chronic obstructive lung diseases, including emphysema, chronic bronchitis, asthma, and related lung disorders.
- (5) Conditions where smoking or tobacco use has been determined to be a risk factor for excess disability and illness, including burns due to smoking-related fires.

(c) "Tobacco use" means the consumption of tobacco products by burning, chewing, inhalation, or other forms of ingestion.

(d) "Voluntary health organization" means a nonprofit organization organized for purposes related to health, including, but not limited to, an organization devoted to the research of cancer, heart disease, or diseases of the lung.

(e) "Committee" means the Tobacco Education Oversight Committee.

(f) "The department" means the State Department of Health Services.

(g) "Service provider" means an agency or organization that enters into an agreement with the local lead agency or state department to provide services under this article.

(h) "Direct services" means the provision of preventive health education services to targeted populations.

(i) "Local plan" means a plan submitted pursuant to Section 104400.

(j) "Preventive health education against tobacco use" means programs of instruction intended to dissuade individuals from beginning to smoke, to encourage smoking cessation, or to provide information on the health effects of tobacco on the user, children, and nonsmokers. These programs may include a focus on health promotion, disease prevention, and risk reduction, utilizing a "wellness perspective" that encourages self-esteem and positive decisionmaking techniques.

(k) "Targeted populations" means those population groups specified in Sections 104360 and 104385.

(l) "Local lead agencies" means those agencies designated as local lead agencies pursuant to Section 104400.

(Added by Stats. 1995, Ch. 415, Sec. 5. Effective January 1, 1996.)

104360. The following target populations, at a minimum, shall be the focus of the campaign implemented pursuant to this article:

(a) School-age youth and their families in the schools and in the community.

(b) Black, Hispanic, Native American, and Asian-Pacific American populations, pregnant women, and current smokers.

(Added by Stats. 1995, Ch. 415, Sec. 5. Effective January 1, 1996.)

104365. (a) There is hereby created the Tobacco Education and Research Oversight Committee in state government that shall advise the department and the State Department of Education with respect to policy development, integration, and evaluation of tobacco education programs funded under this article, and for development of a master plan for the future implementation of tobacco education programs.

(b) The Tobacco Education Oversight Committee shall be composed of 13 members to be appointed as follows:

- (1) Two members representing volunteer health organizations dedicated to the reduction of tobacco use appointed by the Speaker of the Assembly.
- (2) One member representing an organization that represents health care employees appointed by the Senate Rules Committee.
- (3) One member of a professional education association, such as an association of teachers, appointed by the Senate Rules Committee.
- (4) One member of a university faculty with expertise in programs intended to reduce tobacco use appointed by the Governor.
- (5) Two representatives of a target population group appointed by the Governor.
- (6) One representative of the department appointed by the Governor.

(7) One representative of the State Department of Education appointed by the Superintendent of Public Instruction.

(8) One member representing the interests of the general public appointed by the Governor.

(9) One representative of local health departments appointed by the Governor.

(10) One member representing a volunteer health organization dedicated to the reduction of tobacco associated injury appointed by the Governor.

(11) One member from the Tobacco Related Disease Research Program appointed by the Governor.

(c) Members shall serve for a term of two years, renewable at the option of the appointing authority. The initial appointments of members shall be for two or three years, to be drawn by random lot at the first meeting. The committee shall be staffed by the department's coordinator of the program created pursuant to Section 104375.

(d) The committee shall meet as often as it deems necessary, but shall meet not less than four times per year.

(e) The members of the committee shall serve without compensation, but shall be reimbursed for necessary travel expenses incurred in the performance of the duties of the committee.

(Added by Stats. 1995, Ch. 415, Sec. 5. Effective January 1, 1996.)

104370. The committee shall be advisory to the department, the University of California, and State Department of Education for the following purposes:

(a) Evaluation of research, school- and community-based programs funded under this article as necessary in order to assess the overall effectiveness of efforts made by the programs to reduce the use of tobacco products. In order to evaluate tobacco education, research, and cessation programs, the committee shall seek the cooperation and assistance of the department, the State Department of Education, county offices of education, local lead agencies, administrative representatives, target populations, school officials, and researchers. A principal measurement of effectiveness shall be reduction of smoking rates among a given target population.

(b) Facilitation of programs directed at reducing and eliminating tobacco use that are operated jointly by more than one agency or entity. The committee shall propose strategies for the coordination of proposed programs administered by the department, the University of California, and the State Department of Education in order to avoid the duplication of services and to maximize the public benefit of the programs.

(c) Make recommendations to the department, the University of California, and the State Department of Education regarding the most appropriate criteria for the selection of, standards of the operation of, and the types of programs to be funded under this article.

(d) Reporting to the Legislature on or before January 1 of each year on the number and amount of tobacco education programs funded by the Health Education Account, created by Section 30122 of the Revenue and Taxation Code, the amount of money in the account, any moneys previously appropriated to the department, the University of California, and the State Department of Education but unspent by the departments, a description and assessment of all programs funded under this article, and recommendations for any necessary policy changes or improvements for tobacco education programs.

(e) Ensuring that the most current research findings regarding tobacco use prevention are applied in designing the tobacco education programs administered by the department and the State Department of Education. The department and the State Department of Education shall apply the most current findings and recommendations of research including research funded by the Research Account of the Cigarette and Tobacco Products Surtax Fund created by Section 30122 of the Revenue and Taxation Code.

(f) Based on the results of programs supported by this article and any other proven methodologies available to the committee, produce a comprehensive master plan for implementing tobacco education programs throughout this state for the prevention and cessation of tobacco use. The master plan shall include implementation strategies for each target population specified in Section 104360 for programs throughout this state. The Tobacco Education and Research Oversight Committee shall submit the master plan to the Legislature biennially. The master plan and its revisions shall include recommendations on administrative arrangements, funding priorities, integration and coordination of approaches by the department, the University of California, and the State Department of Education and their support systems, as well as progress reports relating to each target population. The master plan shall establish a goal of achieving a 75-percent reduction in tobacco consumption in California by the year 1999.

(Amended by Stats. 2001, Ch. 745, Sec. 147. Effective October 12, 2001.)

104375. (a) To prevent tobacco-related diseases and diminish tobacco use, the department shall establish within the department a program on tobacco use and health to reduce tobacco use in California by conducting health education interventions and behavior change programs at the state level, in the community, and other nonschool settings.

(b) The department shall conduct statewide surveillance of tobacco-related behaviors, knowledge, and attitudes and evaluate the department's local and state tobacco control programs under this article. At a minimum, these evaluation activities shall utilize

scientifically appropriate methods for monitoring the annual progress of the program in reducing the adult smoking prevalence from the 1993 benchmark rate of 20 percent and reducing cigarette consumption from the 1993 per capita benchmark rate of 4.84 packs per quarter. These surveillance and evaluation activities may include, but need not be limited to, the following:

- (1) Be based on sound evaluation principles and include, to the extent feasible, elements of controlled experimental methods.
- (2) Monitor the overall statewide effect of health education efforts on smoking and tobacco use, and, to the extent feasible, the resulting effects on health.
- (3) Monitor the effect of the programs on individual target populations identified by this article or designated by the department as meriting special attention.
- (4) Provide an evaluation of the comparative effectiveness of individual program designs that shall be used in funding decisions and program modifications.
- (5) Incorporate other aspects into the evaluation that have been identified by the department in consultation with state and local advisory groups, local lead agencies, and other interested parties.
- (6) Funds permitting, utilize a sample size that is adequate to produce county, regional, and ethnic specific estimates.

(c) The department shall produce or contract for, and update biennially, a description of programs determined to be effective in reducing smoking and tobacco use, and the identification of portions of target populations that need information regarding the hazards of tobacco use. The department, in consultation with the State Department of Education, shall conduct, or contract for an evaluation of the effectiveness of the tobacco use prevention and education program as implemented in the public schools that receive funding for tobacco use prevention education pursuant to Sections 104420, 104425, 104435, and 104445. The purpose of the evaluation shall be to direct the most efficient allocation of resources appropriated under this article to accomplish the maximum prevention and reduction of tobacco use. The comprehensive evaluation shall be designed to measure the extent to which programs funded pursuant to this article promote the goals identified in this article and in Proposition 99 of the November 1988 general election. All information resulting from the evaluation shall be made available to the State Department of Education for purposes of improving its ability to implement and oversee the provision of effective tobacco use prevention education programs. The evaluator shall:

- (1) Assess the effectiveness of tobacco use prevention education programs designed to prevent and reduce tobacco use among students. In support of this primary goal, the evaluation shall:
 - (A) Report findings on the effectiveness of programs and strategies currently in use in California schools that prevent and reduce tobacco use.
 - (B) Select a research strategy that will identify formal and informal factors that might account for differences in tobacco use by students, including, but not limited to, formal education prevention strategies.
 - (C) Incorporate in the evaluation quantitative as well as qualitative data. The data shall include, but are not limited to:
 - (i) Student data, including attitudes, knowledge, and behavior based upon a statistically valid random sample of school districts and students.
 - (ii) Curriculum data, including diversity of curricula, evidence of appropriateness to grade level, gender, and ethnicity, and the extent of the inclusion of prevention approaches identified in research literature.
 - (iii) School data, including intensity of emphasis on tobacco use prevention and evidence of counseling or treatment referral systems.
 - (iv) Community data, including the existence of parent networks and the participation of community service organizations including local lead agencies, in prevention.
- (2) Develop and test a regular tobacco use prevention and education information system for use by the State Department of Education, using the resulting information to establish the extent of implementation of tobacco use prevention education programs statewide and the degree of student exposure to these programs at selected grade levels.
- (3) Ensure provision of a fourth administration of a statewide, biennial survey of attitudes toward tobacco and prevalence of tobacco use among public school students. To the extent possible, existing survey data shall be utilized.
- (4) Provide recommendations to the Legislature and the State Department of Education on tobacco use prevention education program changes.

(5) Assist the State Department of Education in identifying and developing instructional materials and curricula in school-based programs, designed to enhance the prevention of and encouraging the cessation of the continuing use of, tobacco products. The materials and curricula shall address the specific needs of persons in grades 4 to 12, inclusive, and in adult education programs.

(d) School districts shall agree, as a condition of receiving money pursuant to this article, to participate in the evaluation if chosen by the evaluator.

(e) (1) The department shall contract with one or more qualified agencies for production and implementation of an ongoing public awareness of tobacco-related diseases by developing an information campaign using a variety of media approaches. The department shall issue a request for proposals biennially. Any media campaign funded with this part shall stress the importance of both preventing the initiation of tobacco use and quitting smoking and shall be based on professional market research and surveys necessary to determine the most effective method of diminishing tobacco use among specified target populations. Initial media efforts shall be directed to specific target populations. The contractors selected shall be provided with all available survey information resulting from ongoing programs funded under this article. Priority shall be given to minor children, ages 6 to 14, inclusive. The medium used shall be determined to be the most effective at reaching this targeted age group. With respect to the broadcast media, the message shall be aired at times expected to reach the priority age group. With respect to the print media, publications to be used shall be those that appeal to the priority age group.

(2) No media campaign funded pursuant to this article shall feature in any manner the image or voice of any elected public official or candidate for elected office, or directly represent the views of any elected public official or candidate for elected office.

(f) The department shall provide or contract for training, consultation, support, and continuing education to health professionals, and others interested in developing programs and services directed at preventing tobacco use and promoting smoking cessation, utilizing, when available and determined appropriate by the department, the expertise of universities in this state and schools of public health. The training, consultation, support, and continuing education shall include advice and support in creating a smoke-free environment.

(g) The department shall conduct an awards program to acknowledge the outstanding achievements of those communities, organizations, and groups that have fostered movement toward a smoke-free society or have reduced the consumption of tobacco.

(h) The department shall issue guidelines for local plans for education against tobacco use. The guidelines shall require local public health departments to provide services directed at preventing tobacco use and promoting smoking cessation to the target populations enumerated in Section 104360 and to persons under 19 years of age who no longer attend school and to youth attending school who are not served through State Department of Education funded programs. The guidelines shall require for each target population to be served a description of the services to be provided, an estimate of the number to be served, an estimate of the success rate, and a method to determine to what extent goals have been achieved. Beginning with the 1990–91 fiscal year, and for each fiscal year thereafter, the guidelines shall require local lead agencies to describe how local funding decisions will take into account evaluations of program effectiveness and efficiency. The guidelines shall require the submission of a budget and information on staffing configurations.

(i) By December 31, 1989, the department shall issue guidelines for fiscal year 1989–90 and by July 1, 1990, the department shall issue guidelines to local lead agencies on how to prepare a local plan for a comprehensive community intervention program against tobacco use.

(j) The department shall provide technical assistance to local lead agencies for the development of plans required by Section 104400 so that the local lead agencies are able to comply with the schedule for the submission of plans specified in Section 104400. The technical assistance shall include, but not be limited to, the following:

(1) Developing and disseminating preventive health education program options for local communities.

(2) Providing training, consultation, and technical assistance to local health departments, local advisory committees, and service providers.

(k) The department shall receive and approve local plans submitted by local lead agencies and provide technical assistance and guidance as necessary to ensure the compliance of the local lead agencies with this article. Every effort shall be made to approve or provide a list of necessary amendments to a local plan within 30 days of receipt of the local plan. The department may authorize a local lead agency to begin implementation of its local plan on a provisional basis, with final approval of the local plan contingent on satisfying conditions specified by the department.

(l) The department shall work in collaboration with the public and private sectors in implementing the activities required of the department and provide access upon request to local plans, program statistics, and other readily available information.

(m) The department shall provide staff, assistance, and support needed by the committee.

(n) In consultation with the committee, the department shall develop a comprehensive master plan for implementing tobacco education programs throughout the state for the prevention and cessation of tobacco use.

(o) The department shall consult regularly with the University of California regarding trends in the frequency and the cost of treating tobacco-related diseases and the success of research efforts to reduce tobacco use and limit its adverse health effects.

(p) The department shall establish, in consultation with the State Department of Education and county offices of education, a data collection and data management program to study effective tobacco use interventions. Under this program the department may contract for studies and evaluations in school-based and community-based programs. The department shall consult with the State Department of Education regarding the collection and evaluation of program data.

(1) The department shall require, by contract, that local lead agencies use a uniform management data and information system that will permit comparisons of workload, unit costs, and outcome measurements on a statewide basis. The department shall specify data reporting requirements for local lead agencies and their subcontractors.

(2) The department shall approve local lead agency and grantee computer software and hardware in order to ensure systemwide compatibility and capacity to expand. Departmental guidelines for local plans shall require local lead agencies to set forth their hardware and software plans and needs.

(3) The department may contract for the development or operation of a computerized management information system.

(4) The department shall consult the State Department of Education regarding computer software and hardware systems for school-based programs.

(Added by Stats. 1995, Ch. 415, Sec. 5. Effective January 1, 1996.)

104380. (a) Funds appropriated to the department for local lead agencies for purposes of this article shall be allocated prospectively, on a quarterly basis in accordance with this section.

(b) No local lead agency shall be allocated less than one hundred fifty thousand dollars (\$150,000).

(c) (1) Except as provided in subdivision (b), counties not listed in subdivision (d) shall receive an allocation based on each county's proportion of the statewide population.

(2) Counties that receive their allocations pursuant to paragraph (1) shall receive 73 percent of their 1990–91 fiscal year allocation.

(d) Except as provided in subdivision (b), the balance of the funds after the allocation contained in subdivision (c) have been made, shall be allocated to the following specified counties in accordance with the following percentages:

COUNTY	ALLOCATION
Alameda	4.7427%
Contra Costa	1.8032%
Fresno	2.6855%
Kern	1.7083%
Lake	0.1826%
Los Angeles	43.8057%
Mendocino	0.2664%
Merced	0.7244%
Monterey	1.2937%
Orange	5.1382%
Placer	0.3697%
Riverside	3.1828%
Sacramento	3.2922%
San Bernardino	3.7972%

San Diego	5.9971%
San Francisco	5.3898%
San Joaquin	1.7413%
San Luis Obispo	0.8096%
San Mateo	1.4582%
Santa Barbara	0.7918%
Santa Clara	5.2450%
Santa Cruz	0.7709%
Stanislaus	1.2793%
Tulare	1.3768%
Ventura	1.5472%
Yolo	0.6004%

(e) Except as provided in subdivision (b), the allocation for those counties in which a city health department which is a local lead agency as defined by subdivision (l) of Section 104355 is located shall be apportioned among the local lead agencies in that county based on their jurisdiction's proportionate share of the countywide population.

(f) Reductions in allocations necessary to comply with subdivision (b) shall be distributed among the counties listed in subdivision (d) proportionately based on the table contained in subdivision (d).

(g) The department shall use population estimates for 1989 for each county and for each city as specified in the Department of Finance E-1 Report.

(h) Payments shall be made prospectively, on a quarterly basis, to local jurisdictions.

(i) (1) The department shall conduct a fiscal and program review on a regular basis.

(2) If the department determines that any county is not in compliance with any provision of this chapter, the county shall submit to the department, within 60 days, a plan for complying with this article.

(3) The department may withhold funds from local lead agencies allocated funds under this section that are not in compliance with this chapter in the same manner as the department is authorized under Chapter 5 (commencing with Section 16940) of Part 4.7 of Division 9 of the Welfare and Institutions Code. The department may terminate the agreement with the noncompliant local lead agency, recoup any unexpended funds from the noncompliant local lead agency, and reallocate both the withheld and recouped funds to provide services available under this section to the jurisdiction of the noncompliant agency through an agreement with a different governmental or private nonprofit agency capable of delivering those services based on the department's local lead agency guidelines for local plans and a process determined by the department. The department may encumber and reallocate these funds no sooner than three months after the date of the first notification that the department has determined the local lead agency to be out of compliance with statutory requirements.

(Amended by Stats. 1997, Ch. 294, Sec. 7. Effective August 18, 1997.)

104385. (a) The department shall award and administer grants for projects directed at the prevention of tobacco-related diseases. The purpose of the grant program is to conduct health education and promotion activities targeted to high-risk persons and groups in order to reduce the number of persons beginning to use tobacco, continuing to use tobacco, or developing tobacco-related diseases. The grants shall provide funds to eligible grantees, as determined by the department. In awarding grants, the department shall select a variety of projects and grantees.

(b) The department shall develop criteria and standards for the allocation of grant awards which consider the need to balance target populations to be served, project types of rural suburban and urban projects, and consider the current regional availability of similar services. Target populations may include, but not be limited to, children, young adults, pregnant women, low-income individuals, Black, Hispanic, Native American, and Asian-Pacific Islander populations, current smokers, and schoolaged youth no longer attending school classes. The grant awards may also be made to school districts for nonclassroom, districtwide efforts to reduce tobacco use. The department shall develop mechanisms to evaluate all programs and shall require any program funded under this article to provide statistics on the impact of the program.

(c) The department shall give priority to grantees who do the following:

- (1) Demonstrate community support for the project.
- (2) Design the project to coordinate with other community services including local health programs, school-based programs, or voluntary health organizations.
- (3) Design the project to utilize and enhance existing services and resources.
- (4) Serve a target population at high risk of starting tobacco use or developing tobacco-related illnesses.
- (5) Demonstrate an understanding of the role community norms have in influencing behavioral change regarding tobacco use.
- (6) Indicate promising innovative approaches to diminishing tobacco use among target groups and permit those approaches to be replicated by others.

(d) Of the funds appropriated to the department in Item 4260-111-231 of the 1996 Budget Act, five million dollars (\$5,000,000) shall be available specifically for grants awarded on a competitive basis to provide smoking cessation classes or services for persons eligible for and enrolled in the state's Medi-Cal program, or persons who are medically indigent.

(Amended by Stats. 1996, Ch. 199, Sec. 3. Effective July 22, 1996.)

104390. (a) The department may provide program support services to local tobacco use prevention programs, that shall include, but need not be limited to, all of the following:

- (1) Data collection.
- (2) Educational materials.
- (3) Evaluation.
- (4) Technical assistance.
- (5) Training.
- (6) Transfer of information among programs.

(b) Services funded under this section may be awarded through a competitive request for proposal process or directly to another state agency, the Regents of the University of California, the federal government, or an auxiliary organization of the California State University.

(c) Grantees of services under this section shall demonstrate the ability to do both of the following:

- (1) Improve the delivery of local tobacco use prevention programs directed at the targeted populations.
- (2) Design programs to provide statewide and regional services to support local implementation of tobacco use prevention programs.

(Added by Stats. 1995, Ch. 415, Sec. 5. Effective January 1, 1996.)

104395. The department shall expand the Child Health and Disability Prevention (CHDP) Program contained in Article 6 (commencing with Section 124025) of Chapter 3 of Part 2 of Division 106 as follows:

(a) Any child between birth and 90 days after entrance into first grade, all persons under 21 years of age who are eligible for the California Medical Assistance Program, and any person under 19 years of age whose family income is not more than 200 percent of the federal poverty level shall be eligible for services under the program in the county of which they are a resident. The department shall adopt regulations specifying which age groups shall be given certain types of screening tests and recommendations for referral.

(b) The first source of referral under the program shall be the child's usual source of health care. If referral is required and no regular source of health care can be identified, the facility or provider providing health screening and evaluation services shall provide a list of three qualified sources of care, without prejudice for or against any specific source.

(c) The department shall issue protocols for an antitobacco education component of the child health and disability prevention medical examination. The protocols shall include the following: dissuading children from beginning to smoke, encouraging smoking cessation, and providing information on the health effects of tobacco use on the user, children, and nonsmokers. The protocols shall

also include a focus on health promotion, disease prevention, and risk reduction, utilizing a "wellness" perspective that encourages self-esteem and positive decisionmaking techniques, and referral to an appropriate community smoking cessation program.

(d) Notwithstanding any other provision of law, the department shall ensure that a portion of the funds in the Child Health Disability Prevention Program budget is used to facilitate the integration of the medical and dental components of all aspects of that program.

(e) The department shall expand its support and monitoring of county child health and disability prevention program efforts to provide all of the following:

(1) Review of a representative, statistically valid, randomly selected sample of child health and disability prevention health assessments, including, but not limited to, dental assessments, which result in the discovery of conditions which require followup diagnosis and treatment, including but not limited to dental treatment, and which qualify for services under this section. The purpose of the survey and followup reviews of local programs is to determine whether necessary diagnosis and treatment services are being provided, and the degree to which those services comply with the intent of the act that added this subdivision. These survey reviews shall include all counties and shall be conducted at least three times a year.

(2) At least once a year, as part of regular visits to county child health and disability prevention programs to provide technical assistance, support services and monitoring and evaluation of program performance, department staff shall review the effectiveness of the mandated treatment program. The purpose of this review is to assure that the county is providing appropriate followup services for conditions discovered during child health and disability prevention health assessments. This review shall be done in conjunction with the ongoing survey activity of the Child Health and Disability Prevention Branch of the department and shall utilize data resulting from that activity.

(3) If the department establishes that a county has failed to provide treatment services mandated by the act that added this subdivision, the department shall require the county to submit a plan of correction within 90 days. If the department finds that substantial correction has not occurred within 90 days following receipt of the correction plan, it may require the county to enter into a contract pursuant to Section 16934.5 of the Welfare and Institutions Code for the remainder of the fiscal year and the following fiscal year, and for this purpose shall withhold the same percentage of funds as are withheld from other counties participating in the program pursuant to Section 16934.5 of the Welfare and Institutions Code.

(f) This section shall become inoperative on July 1, 2024, or on the date certified by the department pursuant to subdivision (d) of Section 124024, whichever date is later, and shall be repealed on January 1 of the year following the inoperative date.

(Amended by Stats. 2022, Ch. 47, Sec. 8. (SB 184) Effective June 30, 2022. Conditionally inoperative on or after July 1, 2024, by its own provisions. Repealed January 1 following the inoperative date.)

104400. (a) (1) Except as provided in paragraph (2), each county health department or city health department as provided in Section 16800 of the Welfare and Institutions Code shall be the lead local agency for its county. The local lead agency shall have the overall responsibility for the success of the programs funded pursuant to this article in its county.

(2) Counties contracting with the department for the provision of health care services pursuant to Section 16809 of the Welfare and Institutions Code may elect to enter into an arrangement with the department for the administration and provision of funds and services subject to this article in their counties. In those cases, the department shall act as the local lead agency for that county.

(b) The local lead agency shall do all of the following:

(1) Provide, or contract for, preventive health education against tobacco services to targeted populations.

(2) Establish a coordinated information, referral, outreach, and intake system for preventive health education against tobacco services for targeted populations.

(3) Administer funds in accordance with this article, and department guidelines.

(4) Establish a uniform data collection system in compliance with standards and guidelines issued by the department, and submit audit and fiscal reports as required by the department.

(5) Coordinate services authorized by this article within and between county service providers.

(6) Provide technical assistance to service providers.

(7) Review, and suggest improvements to proposed county school district antitobacco plans. Prepare a letter for the county officer of education setting forth conclusions of the review. Work closely with the county office of education to ensure effective coordination of local school and nonschool antitobacco efforts.

(8) Coordinate activities with other governmental agencies.

(c) The local plans described in paragraph (4) of subdivision (b) shall include all of the following:

- (1) A description of the targeted population, including age, race, ethnicity, language, education, income levels, its status as urban or rural, transportation needs, and any other information which the local lead agency determines is relevant.
- (2) Local data on smoking and tobacco use among the targeted population.
- (3) Goals for how many persons of the targeted population will be reached by health education, how many will participate in a smoking prevention or cessation program, and how many will quit or not start smoking as a result.
- (4) A description of the direct services to be provided under the plan, including the services to be provided to the targeted populations enumerated in Section 104360 and schoolage youth who do not receive services through public school programs.
- (5) Cost estimates for programs identified in the plan.

(Added by Stats. 1995, Ch. 415, Sec. 5. Effective January 1, 1996.)

104405. Local lead agencies shall obtain the involvement and participation of local community organizations with special experience and expertise in community health education against tobacco usage, including representatives of high-risk populations. Local lead agencies shall include in their plan submitted pursuant to Section 104400 a description of how they shall fulfill this requirement. Representatives of these local groups shall assist and advise the local lead agency in all aspects of the local plan implemented pursuant to this article.

(Added by Stats. 1995, Ch. 415, Sec. 5. Effective January 1, 1996.)

104410. The following goals and priorities shall govern funding services provided under this article pursuant to local plans:

- (a) The provisions of preventive health education against tobacco use aimed at targeted populations, including pregnant women, mothers of young children, and minorities, school dropouts, and other school-aged youth who would otherwise be unserved.
- (b) The provisions of preventive health education against tobacco use aimed at school-age youth and their families in the community.
- (c) The provision of preventive health education against tobacco use aimed at the workplace and the community.

(Added by Stats. 1995, Ch. 415, Sec. 5. Effective January 1, 1996.)

104415. (a) Local lead agencies shall attempt to ensure that preventive education against tobacco use for targeted populations is provided in a way that reaches all geographic areas of the county.

(b) In choosing among eligible service providers available to serve the targeted populations described in subdivision (a), the local lead agency shall give priority to programs presently providing preventive health education, case management services to the targeted populations which are compatible with preventive health education against tobacco use, or other services in which preventive health education against tobacco use can be incorporated in a logical and efficient manner.

(Added by Stats. 1995, Ch. 415, Sec. 5. Effective January 1, 1996.)

104420. The State Department of Education shall provide the leadership for the successful implementation of this article in programs administered by local public and private schools, school districts, and county offices of education. The State Department of Education shall do all of the following:

- (a) Provide a planning and technical assistance program to carry out its responsibilities under this article.
- (b) Provide guidelines for schools, school districts, county offices of education, and school district consortia to follow in the preparation of plans for implementation of antitobacco use programs for schoolage populations. The guidelines shall do all of the following:
 - (1) Require the applicant agency to select one or more model program designs and permit the applicant to modify the model program designs to take special local needs and conditions into account.
 - (2) Require the applicant agency to prepare for each target population to be served a description of the service to be provided, an estimate of the number to be served, an estimate of the success rate, and a method to determine to what extent goals have been achieved.
 - (3) Require plan submissions to include a staffing configuration and a budget setting forth use and distribution of funds in a clear and detailed manner.

- (c) Prepare model program designs and information for schools, school districts, consortia, and county offices of education to follow in establishing direct service programs to targeted populations. Model program designs shall, to the extent feasible, be based on studies and evaluations that determine which service delivery systems are effective in reducing tobacco use and are cost effective. The State Department of Education shall consult with the department, and school districts with existing antitobacco programs in the preparation of model program designs and information.
- (d) Provide technical assistance for schools, school districts, and county offices of education regarding the prevention and cessation of tobacco use. In fulfilling its technical assistance responsibilities, the State Department of Education may establish a center for tobacco use prevention that shall identify, maintain, and develop instructional materials and curricula encouraging the prevention or cessation of tobacco use. The State Department of Education shall consult with the department and others with expertise in antitobacco materials or curricula in the preparation of these materials and curricula.
- (e) Monitor the implementation of programs that it has approved under this article to ensure successful implementation.
- (f) Prepare guidelines within 180 days of January 1, 1996, for a school-based program of outreach, education, intervention, counseling, peer counseling, and other activities to reduce and prevent smoking among schoolage youth.
- (g) Assist county offices of education to employ a tobacco use prevention coordinator to assist local schools and local public and community agencies in preventing tobacco use by pupils.
- (h) Train the tobacco use prevention coordinators of county offices of education so that they are:
- (1) Familiar with relevant research regarding the effectiveness of various kinds of antitobacco use programs.
 - (2) Familiar with department guidelines and requirements for submission, review, and approval of school-based plans.
 - (3) Able to provide effective technical assistance to schools and school districts.
- (i) Establish a tobacco-free school recognition awards program.
- (j) As a condition of receiving funds pursuant to this article, the State Department of Education, county offices of education, charter schools, and school districts shall ensure that they coordinate their efforts toward smoking prevention and cessation with the lead local agency in the community where the local school district is located.
- (k) (1) Develop, in coordination with the county offices of education, and administer a competitive grant program for school-based, antitobacco education programs and tobacco use intervention and cessation activities in order to reduce the number of pupils who begin to use tobacco, continue to use tobacco, or both. Grants shall be awarded, after consultation with local lead agencies, the committee, and representatives of nonprofit organizations dedicated to the reduction of tobacco-associated disease, to school districts, charter schools, and county offices of education for all pupils in grades 6 to 12, inclusive, that comply with the requirements of paragraphs (2) and, if applicable, (3).
- (2) Every school district, charter school, and county office of education that receives a grant pursuant to this section shall provide tobacco use prevention instruction that addresses all of the following essential topics:
- (A) Immediate and long-term undesirable physiologic, cosmetic, and social consequences of tobacco use.
 - (B) Reasons that adolescents say they smoke or use tobacco.
 - (C) Peer norms and social influences that promote tobacco use.
 - (D) Refusal skills for resisting social influences that promote tobacco use.
- (3) Every school district, charter school, and county office of education that receives a grant pursuant to this section for pupils in grades 7 to 12, inclusive, shall provide tobacco use intervention and cessation activities targeted for pupils in high-risk groups.
- (4) The State Department of Education shall develop criteria and standards for the allocation of grant awards that consider the need to balance rural, suburban, and urban projects. In addition, the State Department of Education shall give priority to applicants and programs that do all of the following:
- (A) Target current smokers and pupils most at risk for beginning to use tobacco.
 - (B) Offer or refer pupils to cessation classes for current smokers.
 - (C) Utilize existing antismoking resources, including local antismoking efforts by local lead agencies and competitive grant recipients.
 - (D) Design the project to coordinate with other community services, including, but not limited to, local health agencies, voluntary health organizations, and parent organizations.
 - (E) Design the project to use and develop existing services and resources.

(F) Demonstrate an understanding of the role that the environment and community norms play in influencing tobacco use.

(5) Available funds shall determine grant award amounts.

(l) Allocate funds to county offices of education to provide technical assistance and leadership for tobacco use prevention, intervention, and cessation programs. The funds shall be allocated to all participating county offices of education at a minimum amount of thirty-seven thousand five hundred dollars (\$37,500). If funds appropriated for purposes of allocating at least thirty-seven thousand five hundred dollars (\$37,500) to all participating county offices of education are insufficient, the Superintendent of Public Instruction shall prorate available funds among participating county offices of education ensuring that all participating county offices of education receive an equal minimum level of funding of thirty-seven thousand five hundred dollars (\$37,500). If funds are sufficient to provide all participating county offices of education a minimum of thirty-seven thousand five hundred dollars (\$37,500), the remaining funds shall be allocated according to the following schedule based on average daily attendance in the prior year credited to all elementary, high, and unified school districts, and to the county superintendent of schools within the county as certified by the Superintendent of Public Instruction:

(1) For counties with 550,000 or more units of average daily attendance, thirty cents (\$0.30) per average daily attendance.

(2) For counties with 100,000 or more and less than 550,000 units of average daily attendance, sixty-five cents (\$0.65) per average daily attendance.

(3) For counties with 50,000 or more and less than 100,000 units of average daily attendance, ninety cents (\$0.90) per average daily attendance.

(4) For counties with 37,500 or more and less than 50,000 units of average daily attendance, one dollar (\$1) per average daily attendance.

(5) For counties with less than 37,500 units of average daily attendance, thirty-seven thousand five hundred dollars (\$37,500).

(m) Allocate funds appropriated by Chapter 415 of the Statutes of 1995 for local assistance to school districts and county offices of education based on average daily attendance reported in the second principal apportionment in the prior fiscal year.

(n) (1) Provide that all school districts, charter schools, and county offices of education that receive funding under subdivision (m) make reasonable progress toward providing a tobacco-free environment in school facilities for pupils and employees.

(2) Require that all school districts, charter schools, and county offices of education that receive funding pursuant to paragraph (1) adopt and enforce a tobacco-free campus policy no later than July 1 of each fiscal year. The policy shall prohibit the use of products containing tobacco and nicotine, including, but not limited to, smokeless tobacco, snuff, chew, clove cigarettes, and electronic cigarettes that can deliver nicotine and nonnicotine vaporized solutions, at any time, in charter school or school district-owned or leased buildings, on school or district property, and in school or district vehicles. However, this section does not prohibit the use or possession of prescription products, nicotine patches, or nicotine gum. Information about the policy and enforcement procedures shall be communicated clearly to school personnel, parents, pupils, and the larger community. Signs stating "Tobacco use is prohibited" shall be prominently displayed at all entrances to school property as provided in Section 104559. Information about smoking cessation support programs shall be made available and encouraged for pupils and staff. Any school district, charter school, or county office of education that does not have a tobacco-free district policy implemented by July 1, shall not be eligible to apply for funds from the Cigarette and Tobacco Products Surtax Fund for that fiscal year.

(Amended by Stats. 2016, 2nd Ex. Sess., Ch. 5, Sec. 1. (AB 9 2x) Effective June 9, 2016.)

104430. (a) The State Department of Education shall make available funds appropriated to it from the Health Education Account in the Cigarette and Tobacco Products Surtax Fund for the implementation of Section 104420 according to the following schedule:

(1) (A) Not less than two-thirds of that amount shall be awarded to local educational agencies. Funds allocated pursuant to paragraphs (2) and (3) shall not be considered funds for distribution to local educational agencies.

(B) Not less than two hundred thousand dollars (\$200,000) of the amount subject to subparagraph (A) shall be made available for proportionate awards to applicant education centers pursuant to Article 6 (commencing with Section 33380) of Chapter 3 of Part 20 of the Education Code, for tobacco use prevention projects.

(2) Not less than two hundred thousand dollars (\$200,000) of the amount awarded pursuant to Section 104420 shall be used for the support of statewide program evaluation.

(3) Not more than nine hundred thousand dollars (\$900,000) of the amount awarded pursuant to Section 104420 shall be awarded as grants for technical assistance, implementation strategies, and regional coordinating activities related to tobacco use prevention pursuant to subdivision (l) of Section 104420.

(b) Any amount that exceeds the amounts specified in subdivision (a) shall be allocated for competitive grants pursuant to subdivision (l) of Section 104420.

(c) On and after January 1, 1992, funding to which this section applies shall be made available only upon a determination by the Legislative Analyst and the Tobacco Education Oversight Committee, in the evaluation required by subdivision (c) of Section 104375, indicating that the tobacco use prevention program meets the purpose of this article.

(Amended by Stats. 2007, Ch. 135, Sec. 3. Effective January 1, 2008. Operative July 1, 2009, by Sec. 6 of Ch. 135.)

104435. County offices of education that receive funds pursuant to subdivision (l) of Section 104420 shall do all of the following:

(a) Provide technical assistance and training to school districts and consortia of school districts regarding planning and preparation of antitobacco programs plans pursuant to State Department of Education guidelines.

(b) Provide for appropriate coordination between school districts programs and local antitobacco use programs funded by the local lead agency.

(c) Participate in the review and scoring of applications submitted by school districts for grant awards made pursuant to Section 104420.

(d) Participate in the monitoring and technical assistance review process for school districts and county offices of education pursuant to Section 104455.

(Amended by Stats. 2007, Ch. 135, Sec. 4. Effective January 1, 2008. Operative July 1, 2009, by Sec. 6 of Ch. 135.)

104440. Local lead agencies shall be ineligible for awards under the competitive grants program, unless the local lead agency is participant within a consortium of community-based organizations or nonprofit organizations.

(Added by Stats. 1995, Ch. 415, Sec. 5. Effective January 1, 1996.)

104445. In awarding grants under the competitive grants program, the department shall give preference to all of the following:

(a) Nonprofit or community-based organizations.

(b) Current contractors that meet both of the following requirements:

(1) Have demonstrated effectiveness and capacity in providing tobacco education services.

(2) Serve populations and areas with substantial unmet service needs.

(c) Proposals that provide new or expanded services to geographic areas or target populations underserved, as determined by the department.

(Added by Stats. 1995, Ch. 415, Sec. 5. Effective January 1, 1996.)

104450. (a) The State Department of Education shall develop a common reporting format for districts receiving tobacco-use-prevention funds under this article.

(b) The format required by subdivision (a) shall be designed to provide annual data on all of the following:

(1) Tobacco-use-prevention education program expenditures.

(2) Tobacco-use-prevention education program instructional and other services to targeted and general student populations.

(3) Tobacco-use-prevention education program staff development and parent training.

(4) Other information determined to be appropriate by the department.

(c) The information provided by the format required by subdivision (a) shall be in a quantitative format that describes the number of individuals who are served and the number of individuals receiving each type of service.

(d) In addition to the requirements of subdivision (c), the information to be provided by the format required by subdivision (a) shall include, at a minimum, all of the following:

(1) (A) The number of students receiving tobacco-use-prevention instruction and the type of curriculum used.

(B) The format required by subdivision (a) shall show, by category, those students listed for the purpose of subparagraph (A), in each target group listed in Section 104360.

(2) Other programmatic activities directly targeted to students, and the number of students participating in each.

(3) The types of staff development or other tobacco-use-prevention training and, by staff classification, the number of staff members receiving the training.

(4) The number of parents receiving training and the types of training provided.

(5) The types of programs geared toward community involvement and the number of people served by each type.

(6) The types of services provided to target populations that are in addition to services provided to other students.

(7) The number and size of schools that are tobacco-free.

(8) The ways in which money appropriated for the purpose of this article has been spent, including the following categories: salaries, including, but limited to, personnel, and substitute teacher costs; benefits; travel; consultant services; operating expenses, including, but not limited to, curriculum and instructional materials, supplies, other; capital outlay; and indirect costs.

(e) (1) Each county office of education shall provide to the State Department of Education an annual report on district expenditures and services within its respective county pursuant to the common reporting format developed by the State Department of Education.

(2) The county shall provide an annual report of the information required in paragraph (8) of subdivision (d).

(Amended by Stats. 2001, Ch. 750, Sec. 20. Effective January 1, 2002.)

104455. The State Department of Education shall monitor and ensure implementation of district and county offices of education tobacco-free policies and tobacco-use prevention education programs in districts receiving funding from the Cigarette and Tobacco Products Surtax Fund through procedures determined by the Superintendent of Public Instruction after consultations with the committee.

(Amended by Stats. 2007, Ch. 135, Sec. 5. Effective January 1, 2008. Operative July 1, 2009, by Sec. 6 of Ch. 135.)

104460. (a) Each school district receiving funds from the Cigarette and Tobacco Products Surtax Fund shall make all of the following services available to every pregnant minor and minor parent enrolled in the school district:

(1) Referral to perinatal and related support services.

(2) Outreach services and assessment of smoking status.

(3) Individualized counseling and advocacy services.

(4) Motivational messages.

(5) Cessation services, if appropriate.

(6) Incentives to maintain a healthy lifestyle.

(7) Followup assessment.

(8) Maintenance and relapse prevention services.

(b) Where appropriate, those services listed in subdivision (a) shall be integrated with existing programs for pregnant minors and minor parents.

(c) Each district plan submitted in application for funds under this article shall include a description of the availability of the services required by this section.

(Added by Stats. 1995, Ch. 415, Sec. 5. Effective January 1, 1996.)

104465. (a) The department may annually set aside three million dollars (\$3,000,000) appropriated for the purposes of the competitive grants program established pursuant to this article in order to support efforts to link the statewide media campaign to local communities and to provide regional public and community relations or media initiatives.

(b) Local community initiatives may include, but are not limited to, all of the following:

(1) Encouraging volunteer efforts.

(2) Local media programming.

(3) Provision of assistance in, and facilitation of, public and community events.

(c) The efforts described in subdivision (b) shall be directed principally to the target communities described in Section 104360.

(d) Regular application procedures for competitive grants under this article shall apply to applications for grants under this section.

(e) Funds awarded pursuant to this section shall be awarded in the same manner as other competitive grants under this article.

(Amended by Stats. 2003, Ch. 230, Sec. 7. Effective August 11, 2003.)

104466. Notwithstanding subdivision (a) of Section 2.00 of the Budget Act of 2002 and any other provision of law, commencing with the appropriation for the 2002–03 fiscal year, and for each fiscal year thereafter, any amount appropriated to the department or the State Department of Education to implement the following tobacco use prevention programs shall be available for encumbrance and expenditure for three fiscal years beyond the date of the appropriation:

(a) The program to evaluate tobacco control programs provided for in subdivisions (b) and (c) of Section 104375.

(b) The tobacco use prevention media campaign provided for in subdivision (e) of Section 104375.

(c) The competitive grant program provided for in Section 104385.

(d) The local lead agency tobacco use prevention programs provided for in Section 104400.

(e) The tobacco use prevention program directed at schools provided for in Sections 104420, 104430, and 104435.

(Amended by Stats. 2016, 2nd Ex. Sess., Ch. 5, Sec. 2. (AB 9 2x) Effective June 9, 2016.)

104470. The State Department of Education shall make periodic reports to the committee regarding the status and funding of tobacco education programs funded under this article as required by the committee. The reports shall include an overview of program and grant expenditures funded under this article.

(Added by Stats. 1995, Ch. 415, Sec. 5. Effective January 1, 1996.)

104475. There is hereby created under the authority of the Controller the Tobacco Education Fund.

(Added by Stats. 1995, Ch. 415, Sec. 5. Effective January 1, 1996.)

104480. All guidelines, criteria, standards, and requirements specified in this article are exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and shall be implemented without being adopted as regulations.

(Added by Stats. 1995, Ch. 415, Sec. 5. Effective January 1, 1996.)

104495. (a) For the purposes of this section, the following definitions shall govern:

(1) "Playground" means any park or recreational area specifically designed to be used by children that has play equipment installed, or any similar facility located on public or private school grounds, or on city, county, or state park grounds.

(2) "Tot lot sandbox area" means a designated play area within a public park for the use by children under five years of age. Where the area is not contained by a fence, the boundary of a tot lot sandbox area shall be defined by the edge of the resilient surface of safety material, such as concrete or wood, or any other material surrounding the tot lot sandbox area.

(3) "Public park" includes a park operated by a public agency.

(4) "Youth sports event" means any practice, game, or related activity organized by any entity at which athletes up to 18 years of age are present.

(5) "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. "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.

(6) "Cigarette" means the same as defined in Section 104556.

(7) "Cigar" means the same as defined in Section 104550.

(8) (A) "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.

(B) Notwithstanding subparagraph (A), "tobacco product" does not include a nicotine replacement product approved by the United States Food and Drug Administration.

(b) A person shall not smoke a cigarette, cigar, or other tobacco product within 25 feet of any playground or tot lot sandbox area.

(c) A person shall not dispose of cigarette butts, cigar butts, or any other tobacco-related waste within 25 feet of a playground or a tot lot sandbox area.

(d) A person located in the same park or facility where a youth sports event is taking place shall not use a tobacco product within 250 feet of the youth sports event.

(e) A person shall not intimidate, threaten any reprisal, or effect any reprisal, for the purpose of retaliating against another person who seeks to attain compliance with this section.

(f) Any person who violates this section is guilty of an infraction and shall be punished by a fine of two hundred fifty dollars (\$250) for each violation of this section. Punishment under this section shall not preclude punishment pursuant to Section 13002, Section 374.4 of the Penal Code, or any other law proscribing the act of littering.

(g) The prohibitions contained in subdivisions (b) and (c) shall not apply to a public sidewalk located within 25 feet of a playground or a tot lot sandbox area.

(h) This section shall not preempt the authority of any county, city, or city and county to regulate smoking around playgrounds or tot lot sandbox areas. Any county, city, or city and county may enforce any ordinance adopted prior to January 1, 2002, or may adopt and enforce new regulations that are more restrictive than this section, on and after January 1, 2002.

(i) This section shall not preempt the authority of any county, city, or city and county to regulate the use of a tobacco product around a youth sports event. Any county, city, or city and county may enforce any ordinance adopted before January 1, 2017, or may adopt and enforce a new regulation that is more restrictive than this section, on and after January 1, 2017.

(Amended (as amended by Stats. 2016, 2nd Ex. Sess., Ch. 7, Sec. 15) by Stats. 2016, Ch. 537, Sec. 1. (SB 977) Effective January 1, 2017.)