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**AB-9 Tobacco use programs.** (2015-2016)

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**Assembly Bill No. 9**

**CHAPTER 5**

An act to amend Sections 104420 and 104466 of, and to add Article 4 (commencing with Section 104559) to Chapter 1 of Part 3 of Division 103 of, the Health and Safety Code, relating to tobacco use programs.

[ Approved by Governor May 04, 2016. Filed with Secretary of State May 04, 2016. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 9, Thurmond. Tobacco use programs.

Existing law establishes the Tobacco Education and Research Oversight Committee to provide advice to the State Department of Public Health and the State Department of Education with respect to policy development, integration, and evaluation of tobacco education programs. Existing law requires the State Department of Education to allocate funds to county offices of education for tobacco use prevention, intervention, and cessation activities. Existing law also requires that all school districts and county offices of education that receive funding, as specified, adopt and enforce a tobacco-free campus policy, no later than July of each fiscal year, prohibiting the use of tobacco products, any time, in district-owned or leased buildings, on district property and in district vehicles.

This bill would expand eligibility for funding for the tobacco use prevention program to include charter schools. The bill would require the State Department of Education to require that all school districts, charter schools, and county offices of education receiving funding under the program adopt and enforce a tobacco-free campus policy prohibiting the use of products containing tobacco and nicotine, as specified, in and on the properties described above and would, in addition, prohibit the use of tobacco and nicotine products in a county office of education, charter school or school district-owned or leased building, on school or district property, and in school or district vehicles without regard to whether those entities receive funding. The bill would also require school districts, charter schools, and county offices of education to prominently display signs at all entrances to school property stating "Tobacco use is prohibited." The bill would make other technical and clarifying changes.

By imposing new duties on school districts and county offices of education, the 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** Section 104420 of the Health and Safety Code is amended to read:

**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.

**SEC. 2.** Section 104466 of the Health and Safety Code is amended to read:

**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.

**SEC. 3.** Article 4 (commencing with Section 104559) is added to Chapter 1 of Part 3 of Division 103 of the Health and Safety Code, to read:

**Article 4. Tobacco Use Prohibition**

**104559.** (a) The use of tobacco and nicotine products is prohibited at any time in a county office of education, charter school or school district-owned or leased buildings, on school or district property, and in school or district vehicles. This includes, but is not limited to, smokeless tobacco, snuff, chew, clove cigarettes, and other nicotine delivery devices, such as electronic cigarettes.

(b) School districts, charter schools, and county offices of education shall prominently display signs at all entrances to school property stating "Tobacco use is prohibited."

**SEC. 4.** If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.