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AB-725 State beaches and parks: smoking ban. (2017-2018)

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Date Published: 09/15/2017 09:00 PM

ENROLLED SEPTEMBER 15, 2017

PASSED IN SENATE SEPTEMBER 11, 2017

PASSED IN ASSEMBLY SEPTEMBER 13, 2017

AMENDED IN SENATE SEPTEMBER 01, 2017

CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

ASSEMBLY BILL

NO. 725

**Introduced by Assembly Member Levine
(Coauthor: Assembly Member Friedman)**

February 15, 2017

An act to add Section 5008.9 to the Public Resources Code, relating to state beaches and parks.

LEGISLATIVE COUNSEL'S DIGEST

AB 725, Levine. State beaches and parks: smoking ban.

Existing law makes it an infraction for a person to smoke a cigarette, cigar, or other tobacco product within 25 feet of a playground or tot lot sandbox area.

This bill would make it an infraction for a person to smoke, as defined, on a state coastal beach or in a unit of the state park system or to dispose of used cigar or cigarette waste on a state coastal beach or in a unit of the state park system, with certain exceptions, as specifically provided. The bill would establish a state-mandated local program by creating a new crime.

This bill would require the Department of Parks and Recreation to develop and post signs at state coastal beaches and units of the state park system to provide notice of the smoking prohibition. The bill would require the smoking prohibition to be enforced only after signs have been posted. The bill would authorize the Director of Parks and Recreation to designate, by posted order, areas within units of the state park system as exempt from these provisions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

SECTION 1. Section 5008.9 is added to the Public Resources Code, to read:

5008.9. (a) For purposes of this section, the following definitions apply:

(1) "Cigar" has the same meaning as defined in Section 104550 of the Health and Safety Code and, for purposes of this section, may contain any other weed or plant as an alternative or supplement to tobacco or nicotine.

(2) "Cigarette" has the same meaning as defined in Section 104556 of the Health and Safety Code and, for purposes of this section, may contain any other weed or plant as an alternative or supplement to tobacco or nicotine.

(3) "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. "Smoke" or "smoking" includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing a prohibition on smoking. "Smoke" or "smoking" does not include either of the following:

(A) The use of a cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product used as a prop in a motion picture, television program, or similar filmed audiovisual work, provided filming is properly permitted by the California Film Commission, the active film set is closed to the general public, and any waste is immediately removed from the beach or park.

(B) The use of a cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product used for ceremonial purposes by a federally recognized Native American tribe listed on the California Tribal Consultation List maintained by the Native American Heritage Commission.

(4) "State coastal beach" means an area that is owned, operated, or under the jurisdiction of the state, an agency of the state, or a department of the state and that adjoins the ocean, a bay, or an estuary.

(5) "Unit of the state park system" means an area specified in Section 5002.

(b) A person shall not smoke on a state coastal beach or in a unit of the state park system.

(c) A person shall not dispose of used cigar or cigarette waste on a state coastal beach or in a unit of the state park system.

(d) A person who violates this section is guilty of an infraction and shall be punished by a fine of up to fifty dollars (\$50).

(e) The department shall develop and post signs at state coastal beaches and units of the state park system to provide notice of the smoking prohibition set forth in subdivision (b). Subdivision (b) shall be enforced on state coastal beaches or in units of the state park system only after signs have been posted.

(f) (1) Notwithstanding any other provision of this section, the director may designate, by posted order, areas within units of the state park system as exempt from the provisions of this section.

(2) The director shall consider public health and safety implications and potential fire risks when making a designation of exempt areas under paragraph (1).

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