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SB-836 State beaches: smoking ban. (2017-2018)

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ENROLLED SEPTEMBER 05, 2018
PASSED IN SENATE AUGUST 30, 2018
PASSED IN ASSEMBLY AUGUST 29, 2018
AMENDED IN ASSEMBLY AUGUST 23, 2018
AMENDED IN ASSEMBLY AUGUST 20, 2018
AMENDED IN SENATE MAY 15, 2018
AMENDED IN SENATE MARCH 20, 2018
AMENDED IN SENATE MARCH 05, 2018

CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

SENATE BILL

NO. 836

Introduced by Senator Glazer
(Principal coauthor: Assembly Member Levine)
(Coauthor: Senator Allen)
(Coauthors: Assembly Members Baker, Gonzalez Fletcher, and Mark Stone)

January 04, 2018

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

LEGISLATIVE COUNSEL'S DIGEST

SB 836, Glazer. State beaches: smoking ban.

Existing law makes it an infraction punishable by a fine of \$250 for a person to smoke a cigarette, cigar, or other tobacco-related product within 25 feet of a playground or tot lot sandbox area.

This bill would make it an infraction punishable by a fine of up to \$25 for a person to smoke, as defined, on a state coastal beach or to dispose of used cigar or cigarette waste on a state coastal beach unless the disposal is made in an appropriate waste receptacle. 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 entrances or strategic locations, as determined by the Director of Parks and Recreation, of state coastal beaches 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 state coastal beaches as exempt from the smoking prohibition, as specified.

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.

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

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

SECTION 1. The Legislature finds and declares that making it an infraction punishable by a fine of up to \$25 for a person to smoke on a state coastal beach or to dispose of used cigar or cigarette waste on a state coastal beach is a matter of statewide concern in recognition of the importance of public health and environmental quality for the people of this state.

SEC. 2. 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 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. "Smoke" or "smoking" does not include the use of a cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product used in connection with the good faith practice of a religious belief or ceremony.

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

(b) A person shall not smoke on a state coastal beach.

(c) A person shall not dispose of used cigar or cigarette waste on a state coastal beach unless the disposal of the cigar or cigarette waste is made in an appropriate waste receptacle.

(d) A person who violates this section is guilty of an infraction and shall be punished by a fine of up to twenty-five dollars (\$25).

(e) The department shall develop and post signs at entrances or strategic locations, as determined by the director, of state coastal beaches to provide notice of the smoking prohibition set forth in subdivision (b). Subdivision (b) shall be enforced on state coastal beaches only after signs have been posted.

(f) Notwithstanding any other provision of this section, the director may designate, by posted order, areas within state coastal beaches as exempt from the provisions of this section. The director shall consider public health and safety implications and potential fire risk when designating an area as exempt pursuant to this subdivision.

SEC. 3. 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.