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AB-367 Menstrual products. (2021-2022)

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Assembly Bill No. 367

CHAPTER 664

An act to amend, repeal, and add Section 35292.6 of, and to add Section 66027.7 to, the Education Code, relating to menstrual products.

[Approved by Governor October 08, 2021. Filed with Secretary of State October 08, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 367, Cristina Garcia. Menstrual products.

Existing law requires a public school maintaining any combination of classes from grade 6 to grade 12, inclusive, that meets a 40% pupil poverty threshold specified in federal law, to stock 50% of the school's restrooms with feminine hygiene products, and prohibits a public school from charging for any menstrual products provided to pupils.

This bill would enact the Menstrual Equity for All Act of 2021, which would require a public school, as provided, maintaining any combination of classes from grades 6 to 12, inclusive, to stock the school's restrooms with an adequate supply of free menstrual products, as defined, available and accessible, free of cost, in all women's restrooms and all-gender restrooms, and in at least one men's restroom, at all times, and to post a designated notice, on or before the start of the 2022–23 school year, as prescribed.

This bill would require the California State University and each community college district, and would encourage the Regents of the University of California and private universities, colleges, and institutions of higher learning, to stock an adequate supply of menstrual products, available and accessible, free of cost, at no fewer than one designated and accessible central location on each campus and to post a designated notice, as provided.

By imposing additional requirements on public schools and community college districts, this 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 the statutory provisions noted above.

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

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

SECTION 1. (a) This act shall be known, and may be cited, as the Menstrual Equity for All Act of 2021.

(b) The Legislature finds and declares all of the following:

(1) California recognizes that access to menstrual products is a basic human right and is vital for ensuring the health, dignity, and full participation of all Californians in public life.

(2) California has an interest in promoting gender equity, not only for women and girls, but also for transgender men, nonbinary, and gender nonconforming people who may also menstruate and experience inequities resulting from lack of access to menstrual products.

(3) Inadequate menstrual support is associated with both health and psychosocial issues, particularly among low-income people. A lack of access to menstrual products can cause emotional distress, physical infection, and disease.

(4) Equal opportunity to education is a fundamental right recognized by the California Constitution. Section 5 of Article IX of, subdivision (a) of Section 7 of Article I of, and subdivision (a) of Section 16 of Article IV of, the California Constitution require the state to maintain and operate the public school system in a manner that provides basic educational equity to students.

(5) California has an interest in creating safe, welcoming, and inclusive schools for all students. Subdivision (b) of Section 201 of the Education Code, in particular, requires all preschool, elementary, and secondary schools to affirmatively combat racism, sexism, and other forms of bias.

(6) Research shows that students lacking access to menstrual products experience higher rates of absences and are less able to focus and engage in the classroom. Absenteeism can lead to significant performance gaps and is linked to social disengagement, feelings of alienation, and adverse outcomes even into adulthood.

(7) The provision of menstrual products in schools helps ensure California provides equal access to education and enables students to reach their full potential, irrespective of gender.

(8) Expanding student access to menstrual products can result in increased attendance rates. After the City of New York passed a law providing free menstrual products to students, participating schools saw a 2.4 percent increase in attendance.

(9) Expanding student access to menstrual products can also result in cost savings due to increased funding associated with student attendance and reduced administrative costs and expenses from charging for menstrual products.

(c) It is the intent of the Legislature that this act provide for the health, dignity, and safety of menstruating students at every socioeconomic level, normalize menstruation among all genders, and foster gender competency in California schools, colleges, and universities.

SEC. 2. Section 35292.6 of the Education Code is amended to read:

35292.6. (a) A public school, including a school operated by a school district, county office of education, or charter school, maintaining any combination of classes from grades 6 to 12, inclusive, that meets the 40-percent pupil poverty threshold required to operate a schoolwide program pursuant to Section 6314(a)(1)(A) of Title 20 of the United States Code shall stock at least 50 percent of the school's restrooms with menstrual products, available and accessible, free of cost, at all times.

(b) A public school described in subdivision (a) shall not charge for any menstrual products provided to pupils.

(c) For purposes of this section, "menstrual products" means menstrual pads and tampons for use in connection with the menstrual cycle.

(d) This section shall become inoperative on June 30, 2022, and, as of January 1, 2023, is repealed.

SEC. 3. Section 35292.6 is added to the Education Code, to read:

35292.6. (a) On or before the start of the 2022–23 school year, a public school, including a school operated by a school district, county office of education, or charter school, maintaining any combination of classes from grades 6 to 12, inclusive, shall stock the school's restrooms at all times with an adequate supply of menstrual products, available and accessible, free of cost, in all women's restrooms and all-gender restrooms, and in at least one men's restroom.

(b) A public school described in subdivision (a) shall not charge for any menstrual products provided to pupils.

(c) A public school described in subdivision (a) shall post a notice regarding the requirements of this section in a prominent and conspicuous location in every restroom required to stock menstrual products, available and accessible, free of cost, pursuant to this section. This notice shall include the text of this section and contact information, including an email address and telephone number, for a designated individual responsible for maintaining the requisite supply of menstrual products.

(d) For purposes of this section, "menstrual products" means menstrual pads and tampons for use in connection with the menstrual cycle.

(e) This section shall become operative on July 1, 2022.

SEC. 4. Section 66027.7 is added to the Education Code, to read:

66027.7. (a) (1) The California State University and each community college district shall stock an adequate supply of menstrual products, available and accessible, free of cost, at no fewer than one designated and accessible central location on each campus.

(2) (A) A location's accessibility shall be determined by considering all of, but not limited to, the following factors:

(i) Hours of operation, relative to hours that students are on campus.

(ii) Proximity to high-traffic areas on campus.

(iii) Accessibility by students of all genders and regardless of physical ability.

(iv) Privacy, including whether accessing products would require interaction with staff or other students.

(v) Safety.

(B) Locations described in this paragraph may include student centers, libraries, wellness or health centers, pantries, and study rooms.

(b) The California State University and each community college district shall post a notice regarding the requirements of subdivision (a) in a prominent and conspicuous location in all women's restrooms and all-gender restrooms and in at least one men's restroom.

(c) The Regents of the University of California, independent institutions of higher education, as defined in Section 66010, and private postsecondary educational institutions, as defined in Section 94858, are encouraged to stock an adequate supply of menstrual products, available and accessible, free of cost, at no fewer than one designated and accessible central location on each campus.

(d) If the Regents of the University of California, independent institutions of higher education, as defined in Section 66010, and private postsecondary educational institutions, as defined in Section 94858, implement subdivision (c), the campuses are further encouraged to post a notice regarding the requirements of subdivision (c) in a prominent and conspicuous location in all women's restrooms and all-gender restrooms and in at least one men's restroom.

(e) This section does not prevent a campus from providing more than one location where persons may access menstrual products.

(f) For purposes of this section, "menstrual products" means menstrual pads and tampons for use in connection with the menstrual cycle.

SEC. 5. 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.