

Date of Hearing: March 15, 2016

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

AB 1594 (McCarty) – As Amended March 3, 2016

SUBJECT: Public postsecondary education: prohibition of using tobacco and smoking on campuses

SUMMARY: Prohibits a person from smoking or using any tobacco product on a campus of the California State University (CSU) or the California Community Colleges (CCC); and, encourages the University of California (UC) Regents, to adopt and enforce policies substantially similar, as specified. Specifically, **this bill:**

- 1) Prohibits, effective January 1, 2018, a person from smoking or using any tobacco product on a campus of the CSU or CCC.
- 2) Authorizes the CSU Trustees and the governing board of each community college district to do both of the following:
 - a) Set standards for the enforcement of the smoking prohibition for the campuses within their respective jurisdictions and inform employees and students at that campus about those standards; and,
 - b) With respect to a violation of the smoking prohibition, impose a fine, not to exceed one hundred dollars (\$100), for a first, second, and third offense and for each subsequent offense. The amount of the fine imposed shall be determined by the CSU Trustees or the governing board of the affected community college district, as appropriate. The proceeds of the fines imposed shall be allocated, upon appropriation, for purposes to include, but not necessarily be limited to, support of the educational operations of the campus on which the violation occurs, education about and promotion of the policy implemented by this section, and tobacco use cessation treatment options for students of that campus.
- 3) Encourages the UC Regents to adopt and enforce new, or continue to enforce existing, policies substantially similar to those outlined in 2 (a) and (b) above.
- 4) Defines "to smoke" to mean either of the following:
 - a) To inhale, exhale, burn, or carry any lit or heated substance, including, but not limited to, a tobacco product; and,
 - b) To operate an electronic smoking instrument.
- 5) Defines "use a tobacco product" to mean inhaling, smoking, chewing, dipping, or any other assimilation into the body of tobacco.
- 6) Defines "tobacco product" to mean all forms of tobacco, including smokeless tobacco, cigarettes, cigars, pipes, hookahs, and e-cigarettes.

EXISTING LAW:

- 1) Prohibits smoking inside public buildings or in outdoor areas within 20 feet of a main exit, entrance or window of a public building, but establishes that the aforementioned provision does not preempt local entities and CCC, CSU, and UC from adopting and enforcing more restrictive smoking and tobacco control policies (Government Code (GOV) Section 7597).
- 2) Authorizes the governing bodies of the CSU, UC, and each community college district to set smoke-free enforcement standards for their local campuses and impose a fine for a first, second, and third offense and for each subsequent offense. Specifies that the amount of fines is to be determined by the local governing body and that funds shall be allocated to include, but not be limited to, the designated enforcement agency, education and promotion of the policy, and tobacco cessation treatment options. Specifies that the civil penalty shall not exceed one hundred dollars (\$100). Specifies that if a campus adopts the enforcement and fine measures, as specified, it shall, and the campuses of the UC may, post signs stating their tobacco use policy on campus, as follows: a) the locations at which smoking or tobacco use is prohibited on campus; and, b) the locations at which smoking or tobacco use is permitted on campus. Specifies that if a campus adopts the enforcement and fine measure as specified, it shall, and a campus of the UC may, inform employees and students of the tobacco use policy and enforcement measures employed on their campus (GOV Section 7597.1).
- 3) Authorizes a person to smoke in any other outdoor area of a public building unless otherwise prohibited by state law or local ordinance, and a sign describing the prohibition is posted (GOV Section 7598).
- 4) Prohibits smoking and the disposal of smoking related waste within 25 feet of any playground or sandbox area. Provides that a violation is an infraction punishable by a \$250 fine for each incident (Health and Safety Code Section 104495).
- 5) Prohibits an employer from knowingly permitting smoking in an enclosed space of employment, including lobbies, lounges, waiting areas, elevators, stairwells and restrooms that are a structural part of the building (Labor Code Section 6404.5).

FISCAL EFFECT: Unknown

COMMENTS: *Background.* According to the U.S. Department of Health and Human Services Centers for Disease Control and Prevention (CDCP), *Morbidity and Mortality Weekly Report*, dated November 13, 2015, during 2005 – 2014, the prevalence of cigarette smoking among U.S. adults declined from 20.9 percent to 16.8 percent. Adults aged 18 – 24 years experienced the greatest decrease in cigarette smoking prevalence; however, the use of non-cigarette tobacco products, including e-cigarettes and hookahs, is growing and common among youth and young adults. To note, the extent to which emerging tobacco products, such as e-cigarettes, might have contributed to the observed decline in cigarette smoking in recent years is uncertain at this time.

Additionally, according to the CDCP, cigarette smoking causes more than 480,000 deaths each year in the United States; and, as of 2014, since 1964, approximately 2,500,000 non-smokers have died from health problems caused by exposure to secondhand smoke.

Current policies in place for UC, CSU and CCC. The UC has been working on developing a systemwide smoking policy for the past several years; in 2011, it released a white paper that included a number of studies on smoking and smoking cessation policies. Additionally, in January 2012, the UC President issued a letter to all Chancellors to have them form steering

committees charged with implementing a smoke-free policy on their campuses within 24 months. As of January 2014, a systemwide smoke-free policy has been in place. The provisions of the policy are similar in nature to the contents of this measure.

The Academic Senate of the CSU passed a resolution in January 2013, requesting the CSU Chancellor to take necessary steps to modify the CSU System policy to create a smoke-free university system, including all facilities. Committee staff understands that the CSU systemwide smoke-free campus policy is nearing its completed stages and will be adopted in the near future. Additionally, as of August 1, 2013, CSU Fullerton became the first 100 percent smoke-free campus in the system. The provisions of the policy are similar in nature to the contents of this measure.

The CCC does not have a systemwide policy in place, but as of March 2015, 16 of the 113 CCC are smoke-free campuses.

Purpose of the measure. According to the author, current policies at the CCC and CSU vary. The author states, "The enactment of AB 1594 would ease the problem of second hand smoke for the non-smoking community at all public higher education institutions. It would focus on a universal policy for all public higher education institutions that aims to create a healthy and safe environment for all."

Policy considerations. The measure specifies that the proceeds of fines imposed shall be allocated, upon appropriation, for specified purposes. As drafted, it is presently unclear as to what entity is responsible for enforcing the measure, collecting the fines, and issuing an appropriation.

Moving forward, the author may wish to provide clarity as to who at each segment and campus is responsible for enforcing the measure, collecting and processing collected fines, and appropriating said revenue from the fines. Or, simply allow each segment to create its own enforcement policies.

Additionally, if the intent of this measure is to assist in helping persons to stop smoking, it is unclear as to whether or not an imposed fine will change the behavior of the smoker.

Moving forward, instead of authorizing the segments to levy a fine for offense, the author may wish to authorize the segments to determine the best methods of disciplinary action as needed.

Previous and related legislation. SB 7 X2 (Hernandez) of 2016, which is awaiting action by the Governor, would among others, increase the minimum legal age to purchase or consume tobacco from 18 to 21.

AB 795 (Block), Chapter 617, Statutes of 2011, authorized, among others, the governing bodies of the CSU, UC, and each community college district to set smoke-free enforcement standards for their local campuses and impose a fine for a first, second, and third offense and for each subsequent offense. To note, see number two of the Existing Law section of this analysis for an entire summary of this measure.

REGISTERED SUPPORT / OPPOSITION:

Support

American Cancer Society Cancer Action Network
American Lung Association of California
Campuses Organized and United for Good Health
County Health Executives Association of California
Health Services Association of California Community Colleges
Los Rios Community College District
1 Individual

Opposition

None on file.

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