

AMENDED IN SENATE AUGUST 19, 2016

AMENDED IN SENATE JUNE 15, 2016

AMENDED IN SENATE JUNE 1, 2016

AMENDED IN ASSEMBLY MARCH 31, 2016

AMENDED IN ASSEMBLY MARCH 3, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 1594**

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**Introduced by Assembly Member McCarty**  
(Coauthor: Senator Leno)

January 6, 2016

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An act to repeal and add Section 7597.1 of the Government Code, relating to public postsecondary education.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1594, as amended, McCarty. Public postsecondary education: prohibition of using tobacco and smoking on campuses.

(1) Existing law establishes the University of California, under the administration of the Regents of the University of California; the California State University, under the administration of the Trustees of the California State University; and the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as the segments of public postsecondary education in this state.

Existing law prohibits public employees or members of the public from smoking any tobacco product inside a public building or in a nearby outdoor area, as specified. Existing law also provides that the

governing bodies of the California State University and each community college district have the authority to set enforcement standards relating to smoking on their campuses and to enforce these requirements by citation and fine, as specified. Existing law also authorizes the Trustees of the California State University to establish rules and regulations for the government and maintenance of the buildings and grounds of the university, and provides that a violation or attempted violation of these rules and regulations is a misdemeanor.

This bill would, beginning January 1, 2018, prohibit smoking, including the use of an electronic smoking device, and the use of a tobacco product on a campus of the California State University or the California Community Colleges. The bill would authorize the governing bodies of the California State University and each community college district to set standards for the enforcement of that prohibition and to conduct a positive educational campaign to increase the awareness of a tobacco- and smoke-free policy. The bill would authorize the enforcement of this prohibition by a fine, not to exceed ~~\$100~~, *\$25 for the first offense, \$50 for the 2nd offense, and \$100 for the 3rd and subsequent offenses*, as specified. The bill would require the proceeds of the fine to be allocated for purposes including support of the educational operations of the campus on which the violation occurs, education about and promotion of the policy implemented by the bill, and tobacco use cessation treatment options for students of that campus.

To the extent that these provisions would impose new duties on community college districts, and extend the scope of activities on the buildings and grounds of the California State University that could be charged as misdemeanors, they would constitute a state-mandated local program.

This bill would encourage the Regents of the University of California to adopt and enforce new, or continue to enforce existing, policies substantially similar to those described above.

(2) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so 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.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 7597.1 of the Government Code is  
2 repealed.  
3 SEC. 2. Section 7597.1 is added to the Government Code, to  
4 read:  
5 7597.1. (a) Notwithstanding any other law, beginning January  
6 1, 2018, a person shall not smoke or use a tobacco product on a  
7 campus of the California State University or the California  
8 Community Colleges.  
9 (b) The Trustees of the California State University and the  
10 governing board of each community college district may do all of  
11 the following:  
12 (1) Set standards for the enforcement of the prohibition set forth  
13 in subdivision (a) for the campuses within their respective  
14 jurisdictions and inform employees and students at that campus  
15 about those standards.  
16 (2) Conduct a positive educational campaign to increase the  
17 awareness of a tobacco- and smoke-free policy.  
18 (3) (A) Following compliance with paragraphs (1) and (2) of  
19 subdivision (b) and after January 1, 2018, with respect to a  
20 violation of the prohibition set forth in subdivision (a), impose a  
21 fine, not to exceed ~~one hundred dollars (\$100)~~ *twenty-five dollars*  
22 *(\$25) for the first offense, fifty dollars (\$50) for the second offense,*  
23 *and one hundred dollars (\$100) for the third offense and*  
24 *subsequent offenses.* The amount of the fine imposed under this  
25 paragraph shall be determined by the Trustees of the California  
26 State University or the governing board of the affected community  
27 college district, as appropriate.  
28 (B) The proceeds of the fines imposed under this paragraph  
29 shall be allocated for purposes to include, but not necessarily be  
30 limited to, support of the educational operations of the campus on  
31 which the violation occurs, education about and promotion of the  
32 policy implemented by this section, and tobacco use cessation  
33 treatment options for students of that campus.  
34 (C) Each college or university may implement policies and  
35 procedures, including possible assistance from campus law

1 enforcement, for collecting and processing fines imposed under  
2 this paragraph.

3 (D) If a campus adopts the enforcement and fine measures under  
4 this paragraph, it shall, and the campuses of the University of  
5 California may, post signs stating the campus tobacco use policy  
6 in any locations that were specifically designated for smoking or  
7 tobacco use before the prohibition set forth in subdivision (a) took  
8 effect.

9 (E) A fine shall not be imposed under this paragraph unless and  
10 until an educational campaign conducted pursuant to paragraph  
11 (2) fails to result in substantial compliance with the prohibition  
12 set forth in subdivision (a).

13 (c) The Regents of the University of California are encouraged  
14 to adopt and enforce new, or continue to enforce existing, policies  
15 substantially similar to subdivisions (a) and (b).

16 (d) For purposes of this section, the following definitions apply:

17 (1) ~~“Smoke” or “Smoke”~~ or “smoking” means inhaling, exhaling,  
18 burning, or carrying any lighted or heated cigar, cigarette, or pipe,  
19 or any other lighted or heated tobacco or plant product intended  
20 for inhalation, whether natural or synthetic, in any manner or in  
21 any form. “Smoke” or “smoking” includes the use of an electronic  
22 smoking device that creates an aerosol or vapor, in any manner or  
23 in any form, or the use of any oral smoking device for the purpose  
24 of circumventing the prohibition of smoking.

25 (2) (A) “Tobacco product” means any of the following:

26 (i) A product containing, made, or derived from tobacco or  
27 nicotine that is intended for human consumption, whether smoked,  
28 heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or  
29 ingested by any other means, including, but not limited to,  
30 cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, or  
31 snuff.

32 (ii) An electronic device that delivers nicotine or other vaporized  
33 liquids to the person inhaling from the device, including, but not  
34 limited to, an electronic cigarette, cigar, pipe, or hookah.

35 (iii) Any component, part, or accessory of a tobacco product,  
36 whether or not sold separately.

37 (B) “Tobacco product” does not include a product that has been  
38 approved by the United States Food and Drug Administration for  
39 sale as a tobacco cessation product or for other therapeutic purposes

1 where the product is marketed and sold solely for such an approved  
2 purpose.

3 (e) The governing bodies of the California State University or  
4 a community college district may continue and enforce a tobacco  
5 use policy adopted before January 1, 2017, until the prohibition  
6 set forth in subdivision (a) takes effect.

7 SEC. 3. No reimbursement is required by this act pursuant to  
8 Section 6 of Article XIII B of the California Constitution for certain  
9 costs that may be incurred by a local agency or school district  
10 because, in that regard, this act creates a new crime or infraction,  
11 eliminates a crime or infraction, or changes the penalty for a crime  
12 or infraction, within the meaning of Section 17556 of the  
13 Government Code, or changes the definition of a crime within the  
14 meaning of Section 6 of Article XIII B of the California  
15 Constitution.

16 However, if the Commission on State Mandates determines that  
17 this act contains other costs mandated by the state, reimbursement  
18 to local agencies and school districts for those costs shall be made  
19 pursuant to Part 7 (commencing with Section 17500) of Division  
20 4 of Title 2 of the Government Code.