

Assembly Bill No. 188

CHAPTER 150

An act to add Section 104495 to the Health and Safety Code, relating to tobacco products.

[Approved by Governor August 6, 2001. Filed with Secretary of State August 6, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

AB 188, Vargas. Playgrounds: smoking.

Existing law provides for the establishment of programs relating to tobacco use prevention.

This bill would prohibit the smoking of any cigarette, cigar, or other tobacco-related product within a playground or tot lot sandbox area.

This bill would prohibit any person from disposing of any cigarette, cigarette butts, cigar butts, or any other tobacco-related waste within a playground or tot lot sandbox area.

This bill would define playground and tot lot sandbox area.

This bill would also prohibit any person from intimidating, threatening any reprisal, or effecting any reprisal, for the purpose of retaliating against another person who seeks to attain compliance with the provisions of this section.

This bill would specify that it does not apply to private property.

This bill would make a violation of these provisions an infraction. This bill, by creating a new infraction, would result in 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 no reimbursement is required by this act for a specified reason.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Secondhand smoke also known as environmental tobacco smoke is responsible for approximately 3,000 lung cancer deaths each year in nonsmoking adults and impairs the respiratory health of hundreds of thousands of children.



(b) Secondhand smoke exposure increases the risk of lower respiratory tract infections, including bronchitis and pneumonia, which occur in infants and young children up to 18 months of age.

(c) Secondhand smoke increases the prevalence of fluid in the middle ear, a sign of middle ear disease.

(d) Secondhand smoke increases the frequency of episodes and severity of symptoms of asthmatic children.

SEC. 2. Section 104495 is added to the Health and Safety Code, to read:

104495. (a) For the purposes of this section the following definitions shall govern:

(1) “Playground” means any park or recreational area specifically designed to be used by children that has play equipment installed, or any similar facility located on public or private school grounds, or on city, county, or state park grounds.

(2) “Tot lot sandbox area” means a designated play area within a public park for the use by children under five years of age. Where the area is not contained by a fence, the boundary of a tot lot sandbox area shall be defined by the edge of the resilient surface of safety material, such as concrete or wood, or any other material surrounding the tot lot sandbox area.

(3) “Public park” includes a park operated by a public agency.

(4) “Smoke or smoking” means the carrying of a lighted pipe, lighted cigar, or lighted cigarette of any kind, or the lighting of a pipe, cigar, or cigarette of any kind, including, but not limited to, tobacco, or any other weed or plant.

(5) “Cigarette” means the same as defined in Section 104556.

(6) “Cigar” means the same as defined in Section 104550.

(b) No person shall smoke a cigarette, cigar, or other tobacco-related product within the boundaries of any playground, or tot lot sandbox area.

(c) No person shall dispose of cigarette butts, cigar butts, or any other tobacco-related waste within a playground, or a tot lot sandbox area.

(d) No person shall intimidate, threaten any reprisal, or effect any reprisal, for the purpose of retaliating against another person who seeks to attain compliance with this section.

(e) Any person who violates this section is guilty of an infraction and shall be punished by a fine of one hundred dollars (\$100) for each violation of this section.

(f) The prohibitions contained in subdivisions (b), (c), and (d) shall not apply to private property.

(g) This section shall not preempt the authority of any county, city, or city and county to regulate smoking around playgrounds or tot lot sandbox areas. Any county, city, or city and county may enforce any



ordinance adopted prior to January 1, 2002, or may adopt and enforce new regulations that are more restrictive than this section, on and after January 1, 2002.

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.

