

Memorandum

Date: November 21, 2003

To: Government Employees

From: Dileep G. Bal, M.D., Chief
Cancer Control Branch
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Subject: Assembly Bill (AB) 846

On January 1, 2004, a new law affecting public buildings goes into effect. AB 846 (Vargas) Chapter 342, Statutes of 2003, was signed by Governor Davis and amends Sections 7596-7598 of the Government Code. This new law prohibits smoking within 20 feet of main entrances, exits, and operable windows of any building owned, leased, and occupied by the state, county, or city, and buildings of the University of California (UC), California State University (CSU), and California community colleges. The previous law (Government Code 19994.30) prohibited smoking within five feet of the doorways of buildings owned, occupied, or leased and occupied by state government agencies only, excluding UC, CSU, and community colleges.

This bill was signed to further protect Californians from secondhand smoke (SHS) exposure. SHS has been known to cause 4,700 deaths annually in California, including deaths from lung cancer and heart disease. It has also been shown to be responsible for asthma, eye irritation, and respiratory problems in nonsmokers.

Your community may already have a law that prohibits smoking within 20 feet or more of doorways. This new law does not impede enforcement of current no smoking laws that go beyond 20 feet of a doorway or operable window. In addition, this law does not prevent government entities from adopting and enforcing future no smoking laws that go beyond 20 feet.

While funding for signage is not provided for in this law, it is important that signs and ash receptacles be placed accordingly. If you currently have an ordinance or policy that prohibits smoking less than 20 feet from doorways, and signage to support it, then those signs should be replaced to reflect the 20-foot no smoking boundaries. In addition, ash receptacles should be moved accordingly.

Prototypes of a sign and stickers to place on windows are available through your County Health Department's Tobacco Control Program (TCP). A directory of each county health department's and the three city health department's (Berkeley, Long Beach, and Pasadena) TCP is attached.

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The law does not provide funding for enforcement. However, local governments may determine enforcement protocols and the applicability of related laws, such as those addressing trespassing and nuisance.

Based upon experiences of cities and counties that have adopted smoke-free entryway ordinances in the past, it is anticipated that clear signage and placing ash cans at least 20 feet from affected entrances, exits, and windows will make the law virtually self-enforcing.

In addition to the TCP directory, also attached is a question and answer sheet on the law, as well as a copy of the law itself.

Should you have further questions, contact Joanne Wellman-Benson, R.D.H., M.P.H., Program Consultant, Local Programs Unit, Tobacco Control Section, at jwellman@dhs.ca.gov, or (916) 449-5514.

Attachments

**Implementing Assembly Bill (AB) 846,
The New Statewide Smoke-free Entryway Law
FACT SHEET**

What Does the Law Say?

The new law, which originated as Assembly Bill (AB 846), amends California Government Code Sections 7596-7598, to prohibit smoking within 20 feet of a main entrance, exit, and operable window of all public buildings (buildings owned and occupied, or leased and occupied by the state, county, or city) as well as buildings on the campuses of the University of California (UC), California State University (CSU), and California community colleges, effective January 1, 2004. For the law to be effective, a sign must be posted describing the no smoking prohibition.

What is a "Public" Building?

Section 7596(a) of the law defines a public building as "**...a building owned and occupied, or leased and occupied, by the state, a county, a city, a city and county, or a California community college district.**" The law applies to all state, county, and city government buildings. The new law does NOT apply to privately owned buildings unless they are leased or occupied by a state, county, or city agency.

How will the Law be Enforced?

While no formal enforcement procedures are in place for this law, in order to achieve effective enforcement, the California Department of Health Services Tobacco Control Section (CDHS/TCS) strongly recommends that state, county, and local governments post appropriate signage concerning the law and move ash receptacles and urns at least 20 feet from main entrances, exits, and operable windows. Doing so will contribute to self-enforcement. The law does not provide state funding for signs. However, CDHS/TCS and the Tobacco Education Clearinghouse of California have developed a clear, uniform *prototype* sign that can be produced by local communities throughout the state. Decal signage also may be obtained from your local Tobacco Control Program. Please see the enclosed directory.

How Does the Law Apply to Privately Owned Buildings Partially Leased and Occupied by Government Agencies?

AB 846 applies to "public buildings," as defined above.

Government agencies, including colleges, are urged to notify owners/managers of buildings in which they lease space, that the law goes into effect January 1, 2004, and that it prohibits outdoor smoking within 20 feet of building doorways and operable windows in buildings leased and occupied by state or local governments and colleges. Government agencies and colleges are also urged to notify building owners and managers to enact a similar policy around their buildings. Building owners/managers may also wish to make compliance with the new state law a provision of future leases.

Does the Law Preempt Local Governments from Enacting More Restrictive Regulations Addressing Entryway Smoking?

No. The new entryway protection law allows local communities and colleges to adopt more restrictive local ordinances or policies regarding smoking on or around government facilities.

The text of AB 846 is available at http://www.leginfo.ca.gov/pub/bill/asm/ab_0801-0850/ab_846_bill_20030908_chaptered.pdf.

Assembly Bill No. 846

CHAPTER 342

An act to amend Sections 19994.30 and 19994.33 of, to amend the heading of Chapter 5.6 (commencing with Section 19994.30) of Part 2.6 of Division 5 of, to add Chapter 32 (commencing with Section 7596) to Division 7 of Title 1 of, and to repeal Sections 19994.31 and 19994.32 of, the Government Code, relating to tobacco.

[Approved by Governor September 8, 2003. Filed with Secretary of State September 8, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

AB 846, Vargas. Smoking: public buildings.

Existing law prohibits any state employee or member of the public from smoking a tobacco product inside a state-owned or state-occupied building, or a state-leased and state-occupied building, as defined, or within 5 feet of the main exit or entrance of these buildings, or in a passenger vehicle owned by the state.

This bill would instead prohibit smoking inside a public building, as defined, and within 20 feet of a main exit, entrance, or operable window of a public building. It would also provide that these provisions would not preempt the authority of any county, city, city and county, California Community College campus, campus of the California State University, or campus of the University of California to adopt and enforce additional smoking and tobacco control ordinances, regulations, or policies that are more restrictive than the standards required by this bill.

This bill would also make other technical, nonsubstantive, and conforming changes to these provisions.

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

SECTION 1. Chapter 32 (commencing with Section 7596) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 32. SMOKING IN PUBLIC BUILDINGS

7596. As used in this chapter:

(a) "Public building" means a building owned and occupied, or leased and occupied, by the state, a county, a city, a city and county, or a California Community College district.



(1) “Inside a public building” includes all indoor areas of the building, except for covered parking lots, residential space, and state prison yard areas. “Inside a public building” also includes any indoor space leased to the state, county, or city, except for covered parking lots and residential space.

(2) “Residential space” means a private living area, but it does not include common areas such as lobbies, lounges, waiting areas, elevators, stairwells, and restrooms that are a structural part of a multicomplex building such as a dormitory.

(b) “State” or “state agency” means a state agency, as defined pursuant to Section 11000, the Legislature, the Supreme Court and the Courts of Appeal, and each campus of the California State University and the University of California.

(c) “Public employee” means an employee of a state agency or an employee of a county or city.

7597. (a) No public employee or member of the public shall smoke any tobacco product inside a public building, or in an outdoor area within 20 feet of a main exit, entrance, or operable window of a public building, or in a passenger vehicle, as defined by Section 465 of the Vehicle Code, owned by the state.

(b) This section shall not preempt the authority of any county, city, city and county, California Community College campus, campus of the California State University, or campus of the University of California to adopt and enforce additional smoking and tobacco control ordinances, regulations, or policies that are more restrictive than the applicable standards required by this chapter.

7598. Except as provided in Section 7597, a public employee or other person may smoke in any outdoor area of a public building unless otherwise prohibited by state law or local ordinance and a sign describing the prohibition is posted by the state, county, or city agency or other appropriate entity.

SEC. 2. The heading of Chapter 5.6 (commencing with Section 19994.30) of Part 2.6 of Division 5 of the Government Code is amended to read:

CHAPTER 5.6. TOBACCO CONTROL

SEC. 3. Section 19994.30 of the Government Code is amended to read:

19994.30. As used in this chapter:

(a) “Building” means a building owned and occupied, or leased and occupied, by the state.



(b) “State” or “state agency” means a state agency, as defined pursuant to Section 11000, the Legislature, the Supreme Court and the courts of appeal, and each California Community College campus and each campus of the California State University and the University of California.

(c) “State employee” means an employee of a state agency.

SEC. 4. Section 19994.31 of the Government Code is repealed.

SEC. 5. Section 19994.32 of the Government Code is repealed.

SEC. 6. Section 19994.33 of the Government Code is amended to read:

19994.33. (a) The State Department of Health Services may develop guidelines for the content and effective presentation of tobacco smoking control programs designed to assist an individual in either a self-help or group environment. The guidelines may be distributed to state agencies. The State Department of Health Services may provide a copy of the guidelines to any individual or group, upon request, and may charge a fee that shall not exceed the actual cost of producing a copy.

(b) State agencies may offer tobacco smoking control programs to their employees. A state agency may use existing employee training funds to pay for the presentation of tobacco smoking control programs offered to state employees at a state-owned or state-leased building during normal work hours.

(c) Not later than January 31, 1994, and thereafter upon initial employment, each state agency shall inform its employees about the smoking prohibition contained in Section 7597, areas where smoking is permitted, and the availability of tobacco smoking control programs.

(d) Enrollment in a tobacco smoking control program by any state employee shall be voluntary.

