

RESOLUTION 02-06-2015

DIGEST

Tobacco: Raising Minimum Age to 21

Amends Business and Professions Code sections 17537.3, 22951, 22952, 22956, 22958 and 22963, adds Business and Professions Code section 22964, and amends Penal Code section 308, to raise the minimum age for the purchase of, and advertisement for, tobacco products to 21.

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Association recommends that legislation be sponsored to amend California Business and Professions Code sections 17537.3, 22951, 22952, 22956, 22958, and 22963, and add section 22964, and amend Penal Code section 308, to read as follows:

§17537.3

The following acts are prohibited:

(a) For any person to offer as part of an advertising plan or program, promotional offers of smokeless tobacco products which require proof of purchase of a smokeless tobacco product unless it carries a designation that the offer is not available to ~~minors~~ persons under 21 years of age. Each promotional offer shall include in any mail-in coupon a statement requesting purchasers to verify that the purchaser is ~~18~~ 21 years of age or older.

(b) For any person to honor mail-in and telephone requests for promotional offers of smokeless tobacco products unless appropriate efforts are made to ascertain that a purchaser is over ~~18~~ 21 years of age. For purposes of this subdivision, appropriate efforts to ascertain the age of a purchaser includes, but is not limited to, requests for a purchaser's birth date.

(c) For any person by any means, as part of an advertising plan or program, to distribute free samples of smokeless tobacco products within a two block radius of any premises or facilities whose primary purpose is directed toward persons under the age of ~~18~~ 21 years including, but not limited to, schools, clubhouses, and youth centers, when those premises are being used for their primary purposes.

(d) For any person to distribute, as part of any advertising plan or program, unsolicited samples of smokeless tobacco products through a mail campaign.

§22951

The Legislature finds and declares that reducing and eventually eliminating the illegal purchase and consumption of tobacco products by ~~minors~~ any person under 21 years of age is critical to ensuring the long-term health of our state's citizens. Accordingly, California must fully comply with federal regulations, particularly the "Synar Amendment," that restrict tobacco sales to minors and require states to vigorously enforce their laws prohibiting the sale and distribution of tobacco products to persons under 18 years of age. Full compliance and vigorous enforcement of the "Synar Amendment" requires the collaboration of multiple state and local agencies that license, inspect, or otherwise conduct business with retailers, distributors, or wholesalers that sell tobacco.

§22952

31 ~~On or before July 1, 1995, the~~ The State Department of Public Health shall do all of the
32 following:

33 (a) Establish and develop a program to reduce the availability of tobacco products to
34 persons under ~~18~~ 21 years of age through the enforcement activities authorized by this division.

35 (b) Establish requirements that retailers of tobacco products post conspicuously, at each
36 point of purchase, a notice stating that selling tobacco products to anyone under ~~18-21~~ 21 years of
37 age is illegal and subject to penalties. The notice shall also state that the law requires that all
38 persons selling tobacco products check the identification of a purchaser of tobacco products who
39 reasonably appears to be under ~~18~~ 21 years of age. The warning signs shall include a toll-free
40 telephone number to the department for persons to report unlawful sales of tobacco products to
41 ~~minors~~ any person under 21 years of age.

42 (c) Provide that primary responsibility for enforcement of this division shall be with the
43 department. In carrying out its enforcement responsibilities, the department shall conduct
44 random, onsite sting inspections at retail sites and shall enlist the assistance of persons that are
45 ~~15 and 16~~ under 21 years of age in conducting these enforcement activities. The department may
46 conduct onsite sting inspections in response to public complaints or at retail sites where
47 violations have previously occurred, and investigate illegal sales of tobacco products to ~~minors~~
48 any person under 21 years of age by telephone, mail, or the Internet. Participation in these
49 enforcement activities by a person under ~~18~~ 21 years of age does not constitute a violation of
50 subdivision (b) of Section 308 of the Penal Code for the person under ~~18~~ 21 years of age, and the
51 person under ~~18~~ 21 years of age is immune from prosecution thereunder, or under any other
52 provision of law prohibiting the purchase of these products by a person under ~~18-21~~ 21 years of age.

53 (d) In accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of
54 Division 3 of Title 2 of the Government Code, the department shall adopt and publish guidelines
55 for the use of persons under ~~18~~ 21 years of age in inspections conducted pursuant to subdivision

56 (c) that shall include, but not be limited to, all of the following:

57 (1) An enforcing agency may use persons under ~~18 years of age who are 15 or 16~~ 21
58 years of age in random inspections to determine if sales of cigarettes or other tobacco products
59 are being made to persons under ~~18~~ 21 years of age.

60 (2) A photograph or video recording of the person under ~~18~~ 21 years of age shall be
61 taken prior to each inspection or shift of inspections and retained by the enforcing agency for
62 purposes of verifying appearances.

63 (3) An enforcing agency may use video recording equipment when conducting the
64 inspections to record and document illegal sales or attempted sales.

65 (4) The person under ~~18~~ 21 years of age, if questioned about his or her age, need not
66 state his or her actual age but shall present a true and correct identification if verbally asked to
67 present it. Any failure on the part of the person under ~~18-21~~ 21 years of age to provide true and
68 correct identification, if verbally asked for it, shall be a defense to an action pursuant to this
69 section.

70 (5) The person under ~~18-21~~ 21 years of age shall be under the supervision of a regularly
71 employed peace officer during the inspection.

72 (6) All persons under ~~18~~ 21 years of age used in this manner by an enforcing agency
73 shall display the appearance of a person under ~~18~~ 21 years of age. It shall be a defense to an
74 action under this division that the person's appearance was not that which could be generally
75 expected of a person under ~~18~~ 21 years of age, under the actual circumstances presented to the
76 seller of the cigarettes or other tobacco products at the time of the alleged offense.

77 (7) Following the completion of the sale, the peace officer accompanying the person
78 under ~~18~~21 years of age shall reenter the retail establishment and shall inform the seller of the
79 random inspection. Following an attempted sale, the enforcing agency shall notify the retail
80 establishment of the inspection.

81 (8) Failure to comply with the procedures set forth in this subdivision shall be a defense
82 to an action brought pursuant to this section.

83 (e) Be responsible for ensuring and reporting the state's compliance with Section 1926 of
84 Title XIX of the federal Public Health Service Act (42 U.S.C. Sec. 300x-26) and any
85 implementing regulations adopted in relation thereto by the United States Department of Health
86 and Human Services. A copy of this report shall be made available to the Governor and the
87 Legislature.

88 (f) Provide that any civil penalties imposed pursuant to Section 22958 shall be enforced
89 against the owner or owners of the retail business and not the employees of the business.

90
91 §22956

92 All persons engaging in the retail sale of tobacco products shall check the identification
93 of tobacco purchasers, to establish the age of the purchaser, if the purchaser reasonably appears
94 to be under ~~18~~ 21 years of age.

95
96 §22958

97 (a) An enforcing agency may assess civil penalties against any person, firm, or
98 corporation that sells, gives, or in any way furnishes to another person who is under the age of ~~18~~
99 21 years, any tobacco, cigarette, cigarette papers, any other instrument or paraphernalia that is
100 designed for the smoking or ingestion of tobacco, products prepared from tobacco, or any
101 controlled substance, according to the following schedule: (1) a civil penalty of from four
102 hundred dollars (\$400) to six hundred dollars (\$600) for the first violation, (2) a civil penalty of
103 from nine hundred dollars (\$900) to one thousand dollars (\$1,000) for the second violation
104 within a five-year period, (3) a civil penalty of from one thousand two hundred dollars (\$1,200)
105 to one thousand eight hundred dollars (\$1,800) for a third violation within a five-year period, (4)
106 a civil penalty of from three thousand dollars (\$3,000) to four thousand dollars (\$4,000) for a
107 fourth violation within a five-year period, or (5) a civil penalty of from five thousand dollars
108 (\$5,000) to six thousand dollars (\$6,000) for a fifth violation within a five-year period.

109 (b) (1) In addition to the civil penalties described in subdivision (a), upon the
110 assessment of a civil penalty for the third, fourth, or fifth violation, the department, within 60
111 days of the date of service of the final administrative adjudication on the parties or payment of
112 the civil penalty for an uncontested violation, shall notify the State Board of Equalization of the
113 violation. The State Board of Equalization shall then assess a civil penalty of two hundred fifty
114 dollars (\$250) and suspend or revoke a license issued pursuant to Chapter 2 (commencing with
115 Section 22972) of Division 8.6 in accordance with the following schedule:

116 (A) A 45-day suspension of the license for a third violation at the same location within a
117 five-year period.

118 (B) A 90-day suspension of the license for a fourth violation at the same location within
119 a five-year period.

120 (C) Revocation of the license for a fifth violation at the same location within a five-year
121 period.

122 (2) The provisions of Chapter 4 (commencing with Section 55121) of Part 30 of Division
123 2 of the Revenue and Taxation Code apply with respect to the collection of the penalty imposed
124 by the State Board of Equalization pursuant to paragraph (1).

125 (c) (1) For each suspension or revocation pursuant to subdivision (b), the civil penalty of
126 two hundred fifty dollars (\$250) assessed pursuant to that subdivision, notwithstanding Section
127 22953, shall be deposited into the Cigarette and Tobacco Products Compliance Fund established
128 pursuant to Section 22990. Moneys from that civil penalty deposited into this fund shall be made
129 available to the State Board of Equalization, upon appropriation by the Legislature, for the
130 purposes of meeting its duties under subdivision (b).

131 (2) The department shall, upon request, provide to the State Board of Equalization
132 information concerning any person, firm, or corporation that has been assessed a civil penalty for
133 violation of the STAKE Act pursuant to this section when the department has notified the State
134 Board of Equalization of the violation.

135 (d) The enforcing agency shall assess penalties pursuant to the schedule set forth in
136 subdivision (a) against a person, firm, or corporation that sells, offers for sale, or distributes
137 tobacco products from a cigarette or tobacco products vending machine, or a person, firm, or
138 corporation that leases, furnishes, or services these machines in violation of Section 22960.

139 (e) An enforcing agency may assess civil penalties against a person, firm, or corporation
140 that sells or deals in tobacco or any preparation thereof, and fails to post conspicuously and keep
141 posted in the place of business at each point of purchase the notice required pursuant to
142 subdivision (b) of Section 22952. The civil penalty shall be in the amount of two hundred dollars
143 (\$200) for the first offense and five hundred dollars (\$500) for each additional violation.

144 (f) An enforcing agency shall assess penalties in accordance with the schedule set forth
145 in subdivision (a) against a person, firm, or corporation that advertises or causes to be advertised
146 a tobacco product on an outdoor billboard in violation of Section 22961.

147 (g) If a civil penalty has been assessed pursuant to this section against a person, firm, or
148 corporation for a single, specific violation of this division, the person, firm, or corporation shall
149 not be prosecuted under Section 308 of the Penal Code for a violation based on the same facts or
150 specific incident for which the civil penalty was assessed. If a person, firm, or corporation has
151 been prosecuted for a single, specific violation of Section 308 of the Penal Code, the person,
152 firm, or corporation shall not be assessed a civil penalty under this section based on the same
153 facts or specific incident upon which the prosecution under Section 308 of the Penal Code was
154 based.

155 (h) (1) In the case of a corporation or business with more than one retail location, to
156 determine the number of accumulated violations for purposes of the penalty schedule set forth in
157 subdivision (a), violations of this division by one retail location shall not be accumulated against
158 other retail locations of that same corporation or business.

159 (2) In the case of a retail location that operates pursuant to a franchise as defined in
160 Section 20001, violations of this division accumulated and assessed against a prior owner of a
161 single franchise location shall not be accumulated against a new owner of the same single
162 franchise location for purposes of the penalty schedule set forth in subdivision (a).

163 (i) Proceedings under this section shall be conducted pursuant to Section 131071 of the
164 Health and Safety Code, except in cases where a civil penalty is assessed by an enforcing agency
165 other than the department, in which case proceedings shall be conducted pursuant to the
166 procedures of that agency that are consistent with Section 131071 of the Health and Safety Code.

167

168 §22963

169 (a) The sale, distribution, or nonsale distribution of tobacco products directly or
170 indirectly to any person under the age of ~~18~~ 21 years through the United States Postal Service or
171 through any other public or private postal or package delivery service at locations, including, but
172 not limited to, public mailboxes and mailbox stores, is prohibited.

173 (b) Any person selling or distributing, or engaging in the nonsale distribution of, tobacco
174 products directly to a consumer in the state through the United States Postal Service or by any
175 other public or private postal or package delivery service, including orders placed by mail,
176 telephone, facsimile transmission, or the Internet, shall comply with the following provisions:

177 (1) (A) Before enrolling a person as a customer, or distributing or selling, or engaging in
178 the nonsale distribution of, the tobacco product through any of these means, the distributor or
179 seller shall verify that the purchaser or recipient of the product is ~~18~~ 21 years of age or older. The
180 distributor or seller shall attempt to match the name, address, and date of birth provided by the
181 customer to information contained in records in a database of individuals whose age has been
182 verified to be ~~18~~ 21 years or older by reference to an appropriate database of government records
183 kept by the distributor, a direct marketing firm, or any other entity. In the case of a sale, the
184 distributor or seller shall also verify that the billing address on the check or credit card offered
185 for payment by the purchaser matches the address listed in the database.

186 (B) If the seller, distributor, or nonsale distributor, is unable to verify that the purchaser
187 or recipient is ~~18~~ 21 years of age or older pursuant to subparagraph (A), he or she shall require
188 the customer or recipient to submit an age-verification kit consisting of an attestation signed by
189 the customer or recipient that he or she is ~~18~~ 21 years of age or older and a copy of a valid form
190 of government identification. For the purposes of this section, a valid form of government
191 identification includes a driver's license, state identification card, passport, an official
192 naturalization or immigration document, such as an alien registration receipt card (commonly
193 known as a "green card") or an immigrant visa, or military identification. In the case of a sale,
194 the distributor or seller shall also verify that the billing address on the check or credit card
195 provided by the consumer matches the address listed in the form of government identification.

196 (2) In the case of a sale, the distributor or seller shall impose a two-carton minimum on
197 each order of cigarettes, and shall require payment for the purchase of any tobacco product to be
198 made by personal check of the purchaser or the purchaser's credit card. No money order or cash
199 payment shall be received or permitted. The distributor or seller shall submit to each credit card
200 acquiring company with which it has credit card sales identification information in an
201 appropriate form and format so that the words "tobacco product" may be printed in the
202 purchaser's credit card statement when a purchase of a tobacco product is made by credit card
203 payment.

204 (3) In the case of a sale, the distributor or seller shall make a telephone call after 5 p.m.
205 to the purchaser confirming the order prior to shipping the tobacco products. The telephone call
206 may be a person-to-person call or a recorded message. The distributor or seller is not required to
207 speak directly with a person and may leave a message on an answering machine or by voice
208 mail.

209 (4) The nonsale distributor shall deliver the tobacco product to the recipient's verified
210 mailing address, or in the case of a sale, the seller or distributor shall deliver the tobacco product
211 to the purchaser's verified billing address on the check or credit card used for payment. No
212 delivery described under this section shall be permitted to any post office box.

213 (c) Notwithstanding subdivisions (a) and (b), if a seller, distributor, or nonsale
214 distributor, complies with all of the requirements of this section and a ~~minor~~ person under 21
215 years of age obtains a tobacco product by any of the means described in subdivision (b), the
216 seller, distributor, or nonsale distributor is not in violation of this section.

217 (d) For the purposes of the enforcement of this section pursuant to Section 22958, the
218 acts of the United States Postal Service or other common carrier when engaged in the business of
219 transporting and delivering packages for others, and the acts of a person, whether compensated
220 or not, who transports or delivers a package for another person without any reason to know of the
221 package's contents, are not unlawful and are not subject to civil penalties.

222 (e) (1) (A) For the purposes of this section, a "distributor" is any person or entity,
223 within or outside the state, who agrees to distribute tobacco products to a customer or recipient
224 within the state. The United States Postal Service or any other public or private postal or package
225 delivery service are not distributors within the meaning of this section.

226 (B) A "nonsale distributor" is any person inside or outside of this state who, directly or
227 indirectly, knowingly provides tobacco products to any person in this state as part of a nonsale
228 transaction. "Nonsale distributor" includes the person or entity who provides the tobacco product
229 for delivery and the person or entity who delivers the product to the recipient as part of a nonsale
230 transaction.

231 (C) "Nonsale distribution" means to give smokeless tobacco or cigarettes to the general
232 public at no cost, or at nominal cost, or to give coupons, coupon offers, gift certificates, gift
233 cards, or other similar offers, or rebate offers for smokeless tobacco or cigarettes to the general
234 public at no cost or at nominal cost. Distribution of tobacco products, coupons, coupon offers,
235 gift certificates, gift cards, or other similar offers, or rebate offers in connection with the sale of
236 another item, including tobacco products, cigarette lighters, magazines, or newspapers shall not
237 constitute nonsale distribution.

238 (2) For the purpose of this section, a "seller" is any person or entity, within or outside the
239 state, who agrees to sell tobacco products to a customer within the state. The United States Postal
240 Service or any other public or private postal or package delivery service are not sellers within the
241 meaning of this section.

242 (3) For the purpose of this section, a "carton" is a package or container that contains 200
243 cigarettes.

244 (f) A district attorney, city attorney, or the Attorney General may assess civil penalties
245 against any person, firm, corporation, or other entity that violates this section, according to the
246 following schedule:

247 (1) A civil penalty of not less than one thousand dollars (\$1,000) and not more than two
248 thousand dollars (\$2,000) for the first violation.

249 (2) A civil penalty of not less than two thousand five hundred dollars (\$2,500) and not
250 more than three thousand five hundred dollars (\$3,500) for the second violation.

251 (3) A civil penalty of not less than four thousand dollars (\$4,000) and not more than five
252 thousand dollars (\$5,000) for the third violation within a five-year period.

253 (4) A civil penalty of not less than five thousand five hundred dollars (\$5,500) and not
254 more than six thousand five hundred dollars (\$6,500) for the fourth violation within a five-year
255 period.

256 (5) A civil penalty of ten thousand dollars (\$10,000) for a fifth or subsequent violation
257 within a five-year period.

258

259 §22964

260 This division sets forth minimum state restrictions with respect to the legal age to
261 purchase or possess tobacco products and does not preempt or otherwise prohibit the adoption of
262 a local standard that imposes a more restrictive legal age to purchase or possess tobacco
263 products. A local standard that imposes a more restrictive legal age to purchase or possess
264 tobacco products shall control in the event of any inconsistency between this division and a local
265 standard.

266
267 §308

268 (a) (1) Every person, firm, or corporation that knowingly or under circumstances in
269 which it has knowledge, or should otherwise have grounds for knowledge, sells, gives, or in any
270 way furnishes to another person who is under the age of ~~18~~ 21 years any tobacco, cigarette, or
271 cigarette papers, or blunts wraps, or any other preparation of tobacco, or any other instrument or
272 paraphernalia that is designed for the smoking or ingestion of tobacco, products prepared from
273 tobacco, or any controlled substance, is subject to either a criminal action for a misdemeanor or
274 to a civil action brought by a city attorney, a county counsel, or a district attorney, punishable by
275 a fine of two hundred dollars (\$200) for the first offense, five hundred dollars (\$500) for the
276 second offense, and one thousand dollars (\$1,000) for the third offense.

277 Notwithstanding Section 1464 or any other law, 25 percent of each civil and criminal
278 penalty collected pursuant to this subdivision shall be paid to the office of the city attorney,
279 county counsel, or district attorney, whoever is responsible for bringing the successful action,
280 and 25 percent of each civil and criminal penalty collected pursuant to this subdivision shall be
281 paid to the city or county for the administration and cost of the community service work
282 component provided in subdivision (b).

283 Proof that a defendant, or his or her employee or agent, demanded, was shown, and
284 reasonably relied upon evidence of majority shall be defense to any action brought pursuant to
285 this subdivision. Evidence of majority of a person is a facsimile of or a reasonable likeness of a
286 document issued by a federal, state, county, or municipal government, or subdivision or agency
287 thereof, including, but not limited to, a motor vehicle operator's license, a registration certificate
288 issued under the federal Selective Service Act, or an identification card issued to a member of
289 the Armed Forces.

290 For purposes of this section, the person liable for selling or furnishing tobacco products
291 to ~~minors~~ persons under 21 years of age by a tobacco vending machine shall be the person
292 authorizing the installation or placement of the tobacco vending machine upon premises he or
293 she manages or otherwise controls and under circumstances in which he or she has knowledge,
294 or should otherwise have grounds for knowledge, that the tobacco vending machine will be
295 utilized by ~~minors~~ persons under 21 years of age.

296 (2) For purposes of this section, "blunt wraps" means cigar papers or cigar wrappers of
297 all types that are designed for smoking or ingestion of tobacco products and contain less than 50
298 percent tobacco.

299 (b) Every person under the age of ~~18~~ 21 years who purchases, receives, or possesses any
300 tobacco, cigarette, or cigarette papers, or any other preparation of tobacco, or any other
301 instrument or paraphernalia that is designed for the smoking of tobacco, products prepared from
302 tobacco, or any controlled substance shall, upon conviction, be punished by a fine of seventy-
303 five dollars (\$75) or 30 hours of community service work.

304 (c) Every person, firm, or corporation that sells, or deals in tobacco or any preparation
305 thereof, shall post conspicuously and keep so posted in his, her, or their place of business at each
306 point of purchase the notice required pursuant to subdivision (b) of Section 22952 of the
307 Business and Professions Code, and any person failing to do so shall, upon conviction, be
308 punished by a fine of fifty dollars (\$50) for the first offense, one hundred dollars (\$100) for the
309 second offense, two hundred fifty dollars (\$250) for the third offense, and five hundred dollars
310 (\$500) for the fourth offense and each subsequent violation of this provision, or by imprisonment
311 in a county jail not exceeding 30 days.

312 (d) For purposes of determining the liability of persons, firms, or corporations
313 controlling franchises or business operations in multiple locations for the second and subsequent
314 violations of this section, each individual franchise or business location shall be deemed a
315 separate entity.

316 (e) Notwithstanding subdivision (b), any person under ~~18~~ 21 years of age who purchases,
317 receives, or possesses any tobacco, cigarette, or cigarette papers, or any other preparation of
318 tobacco, any other instrument or paraphernalia that is designed for the smoking of tobacco, or
319 products prepared from tobacco is immune from prosecution for that purchase, receipt, or
320 possession while participating in either of the following:

321 (1) An enforcement activity that complies with the guidelines adopted pursuant to
322 subdivisions (c) and (d) of Section 22952 of the Business and Professions Code.

323 (2) An activity conducted by the State Department of Public Health, a local health
324 department, or a law enforcement agency for the purpose of determining or evaluating youth
325 tobacco purchase rates.

326 (f) It is the Legislature's intent to regulate the subject matter of this section. As a result, a
327 city, county, or city and county shall not adopt any ordinance or regulation inconsistent with this
328 section.

329
330 No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the
331 California Constitution because the only costs that may be incurred by a local agency or school
332 district will be incurred because this act creates a new crime or infraction, eliminates a crime or
333 infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556
334 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of
335 Article XIII B of the California Constitution.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT: The Bar Association of San Francisco

STATEMENT OF REASONS

The Problem: Existing law, the Stop Tobacco Access to Kids Enforcement (STAKE) Act, establishes requirements for distributors and retailers regarding tobacco sales to minors. Existing law prohibits the furnishing of tobacco products to, and the purchase of tobacco products by, a person under 18 years of age. The problem is nine in 10 smokers take up the smoking habit by age 18, and 36,000 California kids start smoking each year. (Koseff, Alexei, "Bill would raise California smoking age to 21," Sacramento Bee, 1/29/15, quoting the American Lung

Association in California.) The problems with smoking are myriad, and it would be best to restrict access to those who are at least 21 years old, the same as is done with alcohol.

The Solution: This bill would prohibit the furnishing of tobacco products to, and the purchase of tobacco products by, a person under 21 years of age.

IMPACT STATEMENT

This resolution does not affect any other statute or case law.

CURRENT OR PRIOR RELATED LEGISLATION

This resolution is copied from SB 151, introduced on January 29, 2015 by Sen. Ed Hernandez (D-Azusa), and co-authored by Assembly Member Jim Wood (D-North Coast), and Senator Leno (D-San Francisco.)

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RESPONSIBLE FLOOR DELEGATE: Matthew Mallet

RESOLUTIONS COMMITTEE RECOMMENDATION

APPROVE IN PRINCIPLE

History:

No similar resolutions found.

Reasons:

This resolution amends Business and Professions Code sections 17537.3, 22951, 22952, 22956, 22958 and 22963, adds Business and Professions Code section 22964, and amends Penal Code section 308, to raise the minimum age for the purchase of, and advertisement for, tobacco products to 21. This resolution should be approved in principle because it has been shown that raising the minimum legal age ("MLA") will likely prevent or delay initiation of tobacco use by adolescents and young adults.

Nearly all smokers start as kids or young adults and these age groups are heavily targeted by the tobacco industry. Most states, including California, currently set the MLA at 18. The initiation age of tobacco use is critical to improving the likely public health outcome by preventing or delaying serious illness and premature death. (Institute of Medicine of the National Academies, Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products (March 2015) [https://www.iom.edu/~media/Files/Report%20Files/2015/TobaccoMinAge/tobacco_minimum_age_report_brief.pdf].) The Institute of Medicine study found that raising the MLA to 21 would have a substantial positive impact by significantly reducing the number of adolescents and young adults who start smoking; reduce smoking-related deaths; and immediately improve the health of those who are deterred from smoking, as well as that of their families. It predicted adverse maternal, fetal and infant outcomes, including preterm births, low

birth weights, and SIDS, would decrease due to reduced tobacco exposure in mothers and infants.

More than 60 localities in seven states, including New York City, raised the MLA to 21 as of April 2015, and statewide legislation is being considered in several states. In California, Senator Ed Hernandez (D-West Covina) introduced Senate Bill No. 151 (2014-2016 Reg. Sess.) which mirrors this resolution. Although the two-year bill passed the Senate, it was held in the Assembly and tabled until next year.