

## CALENDAR ITEM

**93**

A     Statewide

04/20/17

S     Statewide

S. Pemberton

### **CONSIDER SUPPORTING STATE LEGISLATION (AB 725, LEVINE AND SB 386, GLAZER) THAT WOULD PROHIBIT SMOKING OR DISPOSING OF USED CIGARETTE WASTE ON A STATE BEACH OR IN A STATE PARK**

#### **SUMMARY:**

Cigarette waste creates marine debris, is harmful to wildlife, and pollutes the coastal environment. AB 725 and SB 386 prohibit smoking or disposing of cigarette waste on a state coastal beach or in a unit of the state park system. These bills benefit state lands under the Commission's jurisdiction because their provisions would diminish marine debris, reduce harm to wildlife and the environment, and reduce fire hazard risks.

#### **BACKGROUND AND DISCUSSION:**

According to the Ocean Conservancy, cigarettes and their waste are the most common form of beach litter found on beaches and a significant source of marine debris. In the last decade, Heal the Bay volunteers picked up 505,768 cigarette butts along Los Angeles County's coast. On Coastal Cleanup Day in 2015, over the span of 3 hours, volunteers across the United States collected 1,078,738 cigarette butts on the nation's beaches. In California, 154,303 cigarette butts were picked up, according to the Ocean Conservancy.

Cigarette filters are predominately made of cellulose acetate fibers, a non-biodegradable material with a lifespan of up to 15 years. Cellulose acetate, and other residual chemicals in cigarette waste, can be toxic to fish and invertebrates. Birds, fish, and other wildlife can mistake cigarette butts as food, causing choking or disrupted digestion.

Many local jurisdictions in California ban smoking at public beaches. Solana Beach in San Diego County was the first city to prohibit smoking on a city beach. The counties of San Mateo and San Francisco, the Cities of San Diego, Los Angeles, Huntington Beach, Pasadena, Carson, and Davis, among others, have ordinances banning smoking in parks or at public beaches. Several universities, including the University of California, prohibit smoking on campus.

In recent years, many bills have been introduced in the California Legislature to prohibit smoking at state beaches and at units of the state park system. In 2016, Senator Block authored legislation (SB 1333) prohibiting smoking at state coastal

## CALENDAR ITEM NO. 93 (CONT'D)

beaches and in units of the state park system. The governor vetoed the bill, deeming it too broad, but expressing openness to a bill that takes a more measured and less punitive approach.

AB 725 and SB 386 are similar to SB 1333. Both bills make it an infraction for a person to smoke or dispose of cigarettes or cigarette waste, including electronic and vapor cigarettes, on a state coastal beach or in a unit of the state park system. The maximum fine is \$250, which is consistent with the existing fine for smoking within 25 feet of a playground or sandbox. The bills require the Department of Parks and Recreation to post signs providing notice of the smoking prohibition.

There are many reasons why banning cigarette smoking at state coastal beaches is beneficial. According to the Assembly Committee on Water, Parks, and Wildlife, studies have found that the non-biodegradable plastic in cigarette butt filters can be toxic when consumed by marine wildlife. Toxic chemicals leached from discarded cigarette butts may be a biohazard to water fleas, which play an important role in aquatic ecosystems by transferring energy and organic matter from primary producers to fishes. Additionally, the Ocean Protection Council's Implementation Strategy on Marine Debris recommends that smoking be prohibited on state beaches.

### **OTHER PERTINENT INFORMATION:**

1. AB 725 and SB 386 are supported by Californians against Waste, Heal the Bay, Sierra Club, the California Optometric Association, the California Association for Health Services at home, the City of Santa Monica, Surfrider Foundation, the American Cancer Association, the American Lung Association, and the American Heart Association. Neither bill has any opposition.
2. The provisions of AB 725 and SB 386 are consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under its jurisdiction.

### **STAFF RECOMMENDATION:**

Commission staff recommends that the Commission support AB 725 (Levine) and SB 386 (Glazer) that would prohibit smoking or disposing of used cigarette waste on a state coastal beach or in a unit of the state park system.

### **EXHIBIT:**

- A. Copy of AB 725 (Levine) and SB 386 (Glazer)

CALENDAR ITEM NO. **93** (CONT'D)

**RECOMMENDED ACTION:**

It is recommended that the Commission:

Support State legislation (AB 725, Levine and SB 386, Glazer) that would prohibit smoking or disposing of used cigarette waste on a state coastal beach or in a unit of the state park system.

**ASSEMBLY BILL**

**No. 725**

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**Introduced by Assembly Member Levine**

February 15, 2017

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An act to add Section 5008.9 to the Public Resources Code, relating to state beaches and parks.

LEGISLATIVE COUNSEL'S DIGEST

AB 725, as introduced, Levine. State beaches and parks: smoking ban.

Existing law makes it an infraction for a person to smoke a cigarette, cigar, or other tobacco product within 25 feet of a playground or tot lot sandbox area.

This bill would make it an infraction for a person to smoke, as defined, on a state coastal beach or in a unit of the state park system or to dispose of used cigar or cigarette waste on a state coastal beach or in a unit of the state park system. The bill would establish a state-mandated local program by creating a new crime.

This bill would require the Department of Parks and Recreation to develop and post signs at state coastal beaches and units of the state park system to provide notice of the smoking prohibition. The bill would require the smoking prohibition to be enforced only after signs have been posted. The bill would authorize the Director of Parks and Recreation to designate, by posted order, areas within units of the state park system as exempt from these provisions.

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.

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 5008.9 is added to the Public Resources  
2 Code, to read:  
3 5008.9. (a) For purposes of this section, the following  
4 definitions apply:  
5 (1) "Cigar" has the same meaning as defined in Section 104550  
6 of the Health and Safety Code and, for purposes of this section,  
7 may contain any other weed or plant as an alternative or  
8 supplement to tobacco or nicotine.  
9 (2) "Cigarette" has the same meaning as defined in Section  
10 104556 of the Health and Safety Code and, for purposes of this  
11 section, may contain any other weed or plant as an alternative or  
12 supplement to tobacco or nicotine.  
13 (3) "Smoke" or "smoking" means inhaling, exhaling, burning,  
14 or carrying any lighted or heated cigar, cigarette, or pipe, or any  
15 other lighted or heated tobacco or plant product intended for  
16 inhalation, whether natural or synthetic, in any manner or in any  
17 form. "Smoke" or "smoking" includes the use of an electronic  
18 smoking device that creates an aerosol or vapor, in any manner or  
19 in any form, or the use of any oral smoking device for the purpose  
20 of circumventing a prohibition on smoking. "Smoke" or "smoking"  
21 does not include the use of a cigar, cigarette, or pipe, or any other  
22 lighted or heated tobacco or plant product used as a prop in a  
23 motion picture, television program, or similar filmed audiovisual  
24 work, provided filming is properly permitted by the California  
25 Film Commission, the active film set is closed to the general public,  
26 and any waste is immediately removed from the beach or park.  
27 (4) "State coastal beach" means an area that is owned, operated,  
28 or under the jurisdiction of the state, an agency of the state, or a  
29 department of the state and that adjoins the ocean, a bay, or an  
30 estuary.  
31 (5) "Unit of the state park system" means an area specified in  
32 Section 5002.

1 (b) A person shall not smoke on a state coastal beach or in a  
2 unit of the state park system.

3 (c) A person shall not dispose of used cigar or cigarette waste  
4 on a state coastal beach or in a unit of the state park system.

5 (d) A person who violates this section is guilty of an infraction  
6 and shall be punished by a fine of up to two hundred fifty dollars  
7 (\$250).

8 (e) The department shall develop and post signs at state coastal  
9 beaches and units of the state park system to provide notice of the  
10 smoking prohibition set forth in subdivision (b). Subdivision (b)  
11 shall be enforced on state coastal beaches or in units of the state  
12 park system only after signs have been posted.

13 (f) (1) Notwithstanding any other provision of this section, the  
14 director may designate, by posted order, areas within units of the  
15 state park system as exempt from the provisions of this section.

16 (2) The director shall consider public health and safety  
17 implications and potential fire risk when making a designation of  
18 exempt areas under paragraph (1).

19 SEC. 2. No reimbursement is required by this act pursuant to  
20 Section 6 of Article XIII B of the California Constitution because  
21 the only costs that may be incurred by a local agency or school  
22 district will be incurred because this act creates a new crime or  
23 infraction, eliminates a crime or infraction, or changes the penalty  
24 for a crime or infraction, within the meaning of Section 17556 of  
25 the Government Code, or changes the definition of a crime within  
26 the meaning of Section 6 of Article XIII B of the California  
27 Constitution.

**SENATE BILL**

**No. 386**

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**Introduced by Senator Glazer  
(Coauthor: Senator Allen)**

(Coauthors: Assembly Members Baker, Bloom, and Mark Stone)

February 14, 2017

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An act to add Section 5008.9 to the Public Resources Code, relating to state beaches and parks.

LEGISLATIVE COUNSEL'S DIGEST

SB 386, as introduced, Glazer. State beaches and parks: smoking ban.

Existing law makes it an infraction for a person to smoke a cigarette, cigar, or other tobacco-related product within 25 feet of a playground or tot lot sandbox area.

This bill would make it an infraction for a person to smoke, as defined, on a state coastal beach or in a unit of the state park system or to dispose of used cigar or cigarette waste on a state coastal beach or in a unit of the state park system. The bill would establish a state-mandated local program by creating a new crime.

This bill would require the Department of Parks and Recreation to develop and post signs at state coastal beaches and units of the state park system to provide notice of the smoking prohibition. The bill would require the smoking prohibition to be enforced only after signs have been posted.

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.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

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- 1 SECTION 1. Section 5008.9 is added to the Public Resources  
2 Code, to read:  
3 5008.9. (a) For purposes of this section, the following  
4 definitions apply:  
5 (1) “Cigar” has the same meaning as defined in Section 104550  
6 of the Health and Safety Code and, for purposes of this section,  
7 may contain any other weed or plant as an alternative or  
8 supplement to tobacco or nicotine.  
9 (2) “Cigarette” has the same meaning as defined in Section  
10 104556 of the Health and Safety Code and, for purposes of this  
11 section, may contain any other weed or plant as an alternative or  
12 supplement to tobacco or nicotine.  
13 (3) “Smoke” or “smoking” means inhaling, exhaling, burning,  
14 or carrying any lighted or heated cigar, cigarette, or pipe, or any  
15 other lighted or heated tobacco or plant product intended for  
16 inhalation, whether natural or synthetic, in any manner or in any  
17 form. “Smoke” or “smoking” includes the use of an electronic  
18 smoking device that creates an aerosol or vapor, in any manner or  
19 in any form, or the use of any oral smoking device for the purpose  
20 of circumventing a prohibition on smoking. “Smoke” or “smoking”  
21 does not include the use of a cigar, cigarette, or pipe, or any other  
22 lighted or heated tobacco or plant product used as a prop in a  
23 motion picture, television program, or similar filmed audiovisual  
24 work, provided filming is properly permitted by the California  
25 Film Commission, the active film set is closed to the general public,  
26 and any waste is immediately removed from the beach or park.  
27 (4) “State coastal beach” means an area that is owned, operated,  
28 or under the jurisdiction of the state, an agency of the state, or a  
29 department of the state and that adjoins the ocean, a bay, or an  
30 estuary.  
31 (5) “Unit of the state park system” means an area specified in  
32 Section 5002.  
33 (b) A person shall not smoke on a state coastal beach or in a  
34 unit of the state park system.



1 (c) A person shall not dispose of used cigar or cigarette waste  
2 on a state coastal beach or in a unit of the state park system.

3 (d) A person who violates this section is guilty of an infraction  
4 and shall be punished by a fine of up to two hundred fifty dollars  
5 (\$250).

6 (e) The department shall develop and post signs at state coastal  
7 beaches and units of the state park system to provide notice of the  
8 smoking prohibition set forth in subdivision (b). Subdivision (b)  
9 shall be enforced on state coastal beaches or in units of the state  
10 park system only after signs have been posted.

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16 for a crime or infraction, within the meaning of Section 17556 of  
17 the Government Code, or changes the definition of a crime within  
18 the meaning of Section 6 of Article XIII B of the California  
19 Constitution.