

AMENDED IN SENATE MARCH 27, 2014

SENATE BILL**No. 1000**

Introduced by Senator Monning
(Coauthor: Senator Steinberg)
(Coauthors: Senators DeSaulnier, Leno, Mitchell, and Steinberg)
(Coauthors: Assembly Members Ammiano and Williams)

February 13, 2014

An act to add Article 15 (commencing with Section 111224) to Chapter 5 of Part 5 of Division 104 of the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

SB 1000, as amended, Monning. Public health: sugar-sweetened beverages: safety warnings.

(1) Existing federal law, the Federal Food, Drug, and Cosmetic Act, regulates, among other things, the quality and packaging of foods introduced or delivered for introduction into interstate commerce and generally prohibits the misbranding of food. Existing federal law, the Nutrition Labeling and Education Act of 1990, governs state and local labeling requirements, including those that characterize the relationship of any nutrient specified in the labeling of food to a disease or health-related condition. Existing state law, the Sherman Food, Drug, and Cosmetic Law, generally regulates misbranded food and provides that any food is misbranded if its labeling does not conform with the requirements for nutrient content or health claims as set forth in the Federal Food, Drug, and Cosmetic Act and the regulations adopted pursuant to that federal act. Existing law requires that a food facility, as defined, make prescribed disclosures and warnings to consumers, as specified. A violation of these provisions is a crime.

Existing state law, the Pupil Nutrition, Health, and Achievement Act of 2001, also requires the sale of only certain beverages to pupils at schools. The beverages that may be sold include fruit-based and vegetable-based drinks, drinking water with no added sweetener, milk, and in middle and high schools, an electrolyte replacement beverage if those beverages meet certain nutritional requirements.

This bill would establish the ~~Sugar-Sweetened Beverage~~ **Sugar-Sweetened Beverage Safety Warning** Act, which would prohibit a person from distributing, selling, or offering for sale a sugar-sweetened beverage in a sealed beverage container, or a multipack of sugar-sweetened beverages, in this state unless the beverage container or multipack bears a specified safety warning, as prescribed. The bill also would require every person who owns, leases, or otherwise legally controls the premises where a vending machine or beverage dispensing machine is located, or where a sugar-sweetened beverage is sold in an unsealed container to place a specified safety warning in certain locations, including, on the exterior of any vending machine that includes a sugar-sweetened beverage for sale.

This bill would require every person that distributes, sells, or offers for retail sale a sugar-sweetened beverage to maintain on its business premises, for a period of two years following each distribution, purchase, or sale, all records, including legible invoices and purchase orders, to determine the quantity and type of sugar-sweetened beverages distributed, purchased, or sold.

(2) Under existing law, the State Department of Public Health, upon the request of a health officer, as defined, may authorize the local health department of a city, county,

city and county, or local health district to enforce the provisions of the Sherman Food, Drug, and Cosmetic ~~Act~~ Law. Existing law authorizes the State Department of Public Health to assess a civil penalty against any person in an amount not to exceed ~~\$1000~~ \$1,000 per day, except as specified. Existing law authorizes the Attorney General or any district attorney, on behalf of the State Department of Public Health, to bring an action in a superior court to grant a temporary or permanent injunction restraining a person from violating any provision of the Sherman Food, Drug, and Cosmetic ~~Act~~ Law.

This bill, commencing July 1, 2015, would provide that any violation of the provisions described in (1) above, or regulations adopted pursuant to those provisions, is punishable by a civil penalty of not less than \$50, but no greater than \$500. By imposing additional enforcement duties on local agencies, this bill would impose a state-mandated local program.

This bill would also create the Sugar-Sweetened ~~Beverage~~ Beverages Safety Warning Fund for the receipt of all moneys collected for violations of those provisions. The bill would allocate moneys in this fund, upon appropriation by the Legislature, to the department for the purpose of enforcing those provisions. This bill would also require the State Department of Public Health to adopt regulations for the implementation of those provisions.

The bill would make legislative findings and declarations relating to the consumption of sugar-sweetened beverages, obesity, and dental disease.

(3) 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

- P3 1 SECTION 1.
The Legislature finds and declares all of the
2 following:
3 (a) The prevalence of obesity in the United States has increased
4 dramatically over the past 30 years. In California, adult obesity
5 rates have increased from 8.9 percent in 1984 to 25.0 percent in
6 2012, and if current trends continue, the rate is expected to increase
7 to 46.6 percent in 2030. Nearly 40 percent of California children
8 are currently overweight or obese. Although no group has escaped
9 the epidemic, low income and communities of color are
10 disproportionately affected.
11 (b) The obesity epidemic is of particular concern because obesity
12 increases the risk of diabetes, heart disease, arthritis, asthma, and
13 certain types of cancer. Depending on their level of obesity, from
14 60 percent to over 80 percent of obese adults currently suffer from
15 type II diabetes, high blood cholesterol, high blood pressure, or
16 other related conditions.
P4 1 (c) The medical costs for people who are obese are dramatically
2 higher than those of normal weight. Overweight and obesity
3 account for \$147 billion in health care costs nationally, or 9 percent
4 of all medical spending, with ~~half~~ one-half these costs paid publicly
5 through the Medicare and Medicaid programs.
6 (d) Health care costs and lost productivity resulting from
7 overweight, obesity, and physical inactivity are estimated to cost
8 California more than \$52 billion annually.