

**Introduced by Senator Yee**January 31, 2011

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An act to add Section 1367.667 to the Health and Safety Code, and to add Section 10123.25 to the Insurance Code, relating to health care coverage.

## LEGISLATIVE COUNSEL'S DIGEST

SB 136, as introduced, Yee. Health care coverage: tobacco cessation.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the regulation of health care service plans by the Department of Managed Health Care and makes a violation of the act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requests the University of California to establish the California Health Benefit Review Program to assess legislation proposing to mandate a benefit or service and legislation proposing to repeal a mandated benefit or service, as specified.

This bill would require certain health care service plan contracts and health insurance policies issued, amended, renewed, or delivered on or after January 1, 2012, to provide coverage for tobacco cessation treatment that includes specified courses of treatment and medication. The bill would request the University of California, as part of the California Health Benefit Review Program, to prepare a report regarding any state savings as a result of this coverage requirement. The bill would make the coverage requirement inoperative upon a determination that it will result in the state assuming additional costs, as specified.

Because a willful violation of the bill's provisions relative to health care service plans would be a crime, the bill would impose 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.

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. The Legislature hereby finds and declares the  
2 following:

3 (a) It is the intent of the Legislature that this act diminish the  
4 statewide economic and personal cost of tobacco addiction by  
5 making tobacco cessation treatments available to all smokers.

6 (b) Cigarette smoking and other uses of tobacco remain the  
7 leading cause of preventable death in California, as well as the  
8 cause of many other serious health problems, including heart  
9 disease, emphysema, and other chronic illnesses.

10 (c) The treatment of tobacco-related diseases continues to  
11 impose a significant burden on California's health care system,  
12 including local and state-funded health care systems. Tobacco use  
13 costs Californians billions of dollars a year in medical expenses  
14 and lost productivity.

15 (d) Providing tobacco cessation counseling and medication is  
16 one of the most clinically effective and cost-effective health  
17 services available, second only to inoculations.

18 (e) Reducing the smoking rate in California by one percentage  
19 point will result in approximately \$91 million saved over five years  
20 from fewer smoking-caused heart attacks and strokes.

21 (f) The United States Public Health Service Clinical Practice  
22 Guideline entitled Treating Tobacco Use and Dependence has  
23 identified the medications and counseling that are scientifically  
24 proven to be effective in helping smokers quit.

25 SEC. 2. Section 1367.667 is added to the Health and Safety  
26 Code, to read:

27 1367.667. (a) (1) A health care service plan contract issued,  
28 amended, renewed, or delivered on or after January 1, 2012, shall  
29 cover a minimum of two courses of treatment in a 12-month period  
30 for all smoking cessation treatments rated "A" or "B" by the United

1 States Preventive Services Task Force, which shall include  
2 counseling and over-the-counter medication and prescription  
3 pharmacotherapy approved by the federal Food and Drug  
4 Administration.

5 (2) The coverage provided pursuant to this section shall only  
6 be available upon the order of an authorized provider. Nothing in  
7 this section shall preclude a health care service plan from allowing  
8 enrollees to access tobacco cessation services on a self-referral  
9 basis.

10 (3) As used in this section, “course of treatment” shall be defined  
11 to consist of the following:

12 (A) As applied to counseling, at least four sessions of  
13 counseling, which may be telephone, group, or individual  
14 counseling with each session lasting at least 10 minutes.

15 (B) As applied to a prescription or over-the-counter medication,  
16 the duration of treatment approved by the federal Food and Drug  
17 Administration for that medication.

18 (4) Enrollees shall not be required to enter counseling in order  
19 to receive tobacco cessation medications after the patient’s first  
20 course of treatment.

21 (5) A health care service plan may not impose prior authorization  
22 or stepped-care requirements on tobacco cessation treatments after  
23 the patient’s first course of treatment.

24 (b) This section shall not apply to Medicare supplement plan  
25 contracts or to specialized health care service plan contracts.

26 (c) The Legislature hereby requests that the University of  
27 California, as part of the California Health Benefit Review Program  
28 established under Section 127660, prepare a report by December  
29 31, 2014, evaluating the requirements of this section and  
30 determining any state savings as a result of those requirements.  
31 The Legislature requests that this report be made available to the  
32 Legislature, the Department of Insurance, and the Department of  
33 Managed Health Care.

34 (d) This section shall become inoperative on the date that the  
35 state determines that, taking into account any state savings  
36 identified under subdivision (c), the requirements of this section  
37 will result in the state assuming additional costs pursuant to  
38 subparagraph (B) of paragraph (3) of subsection (d) of Section  
39 1311 of the federal Patient Protection and Affordable Care Act

1 (Public Law 111-148), as amended by subsection (e) of Section  
2 10104 of Title X of that act.

3 SEC. 3. Section 10123.25 is added to the Insurance Code, to  
4 read:

5 10123.25. (a) (1) A health insurance policy issued, amended,  
6 renewed, or delivered on or after January 1, 2012, shall cover a  
7 minimum of two courses of treatment in a 12-month period for all  
8 smoking cessation treatments rated “A” or “B” by the United States  
9 Preventive Services Task Force, which shall include counseling  
10 and over-the-counter medication and prescription pharmacotherapy  
11 approved by the federal Food and Drug Administration.

12 (2) The coverage provided pursuant to this section shall only  
13 be available upon the order of an authorized provider. Nothing in  
14 this section shall preclude an insurer from allowing insureds to  
15 access tobacco cessation services on a self-referral basis.

16 (3) As used in this section, “course of treatment” shall be defined  
17 to consist of the following:

18 (A) As applied to counseling, at least four sessions of  
19 counseling, which may be telephone, group, or individual  
20 counseling with each session lasting at least 10 minutes.

21 (B) As applied to a prescription or over-the-counter medication,  
22 the duration of treatment approved by the federal Food and Drug  
23 Administration for that medication.

24 (4) Insureds shall not be required to enter counseling in order  
25 to receive tobacco cessation medications after the patient’s first  
26 course of treatment.

27 (5) A health insurer shall not impose prior authorization or  
28 stepped-care requirements on tobacco cessation treatments after  
29 the patient’s first course of treatment.

30 (b) This section shall not apply to Medicare supplement policies  
31 or to specialized health insurance policies.

32 (c) The Legislature hereby requests that the University of  
33 California, as part of the California Health Benefit Review Program  
34 established under Section 127660 of the Health and Safety Code,  
35 prepare a report by December 31, 2014, evaluating the requirements  
36 of this section and determining any state savings as a result of  
37 those requirements. The Legislature requests that this report be  
38 made available to the Legislature, the Department of Insurance,  
39 and the Department of Managed Health Care.

1 (d) This section shall become inoperative on the date that the  
2 state determines that, taking into account any state savings  
3 identified under subdivision (c), the requirements of this section  
4 will result in the state assuming additional costs pursuant to  
5 subparagraph (B) of paragraph (3) of subsection (d) of Section  
6 1311 of the federal Patient Protection and Affordable Care Act  
7 (Public Law 111-148), as amended by subsection (e) of Section  
8 10104 of Title X of that act.

9 SEC. 4. No reimbursement is required by this act pursuant to  
10 Section 6 of Article XIII B of the California Constitution because  
11 the only costs that may be incurred by a local agency or school  
12 district will be incurred because this act creates a new crime or  
13 infraction, eliminates a crime or infraction, or changes the penalty  
14 for a crime or infraction, within the meaning of Section 17556 of  
15 the Government Code, or changes the definition of a crime within  
16 the meaning of Section 6 of Article XIII B of the California  
17 Constitution.