

Date of Hearing: April 5, 2017

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

AB 10 (Cristina Garcia) – As Amended March 7, 2017

[Note: This bill is doubled referred to the Assembly Committee on Education and was heard by that Committee on March 15, 2017 as it relates to issues under its jurisdiction.]

AS PROPOSED TO BE AMENDED

SUBJECT: Feminine hygiene products: school and college bathrooms and shelters

SUMMARY: Requires emergency shelters and domestic violence shelters to ensure adequate and timely access to free menstrual products to all menstruating persons who receive services from the shelter. Specifically, **this bill:**

- 1) Requires all domestic violence shelters and eligible organizations that provide emergency shelters to ensure adequate and timely access to free menstrual products to all menstruating persons who receive services from the organization or shelter.
- 2) Provides that, if an organization or shelter already has an established standard of care or is in compliance with a local ordinance requiring access to free menstrual products, and the standard of care or ordinance is consistent with and not in conflict with this division, the organization or shelter shall be exempt from the requirements of this division.
- 3) Requires a city, county, or city and county with at least one organization or shelter within its jurisdiction which is subject to the requirements of this division and not exempt pursuant to 2), above, to adopt an ordinance establishing enforcement mechanisms for an organization or shelter to comply with the requirements of this division.
- 4) Provides that, if funding were to be made available to an organization or shelter to carry out the requirements of this division, nothing in this division shall be construed to prohibit an exempt organization or shelter from seeking that funding and being reimbursed for costs associated with providing free menstrual products to persons served by the organization or shelter.
- 5) Requires each city, county, or city and county, subject to this division to compile and submit a report documenting compliance with this division to the Assembly Housing and Community Development Committee and the Senate Transportation and Housing Committee no later than January 1, 2020.
- 6) Defines “menstrual products” as tampons and sanitary napkins for use in connection with the menstrual cycle.
- 7) Provides that nothing in this division shall be construed to prohibit a city, county, or city and county from enacting or enforcing an ordinance consistent with and not in conflict with this division.

- 8) Provides that nothing in this division shall be construed to prohibit a city, county, or city and county to adopt an ordinance requiring other entities not subject to this division from providing menstrual products to the people they serve.
- 9) Makes other requirements regarding menstrual product availability in public and private school restrooms, as well as postsecondary institutions.
- 10) Provides that if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to state law.

EXISTING LAW:

- 1) Defines "emergency shelter" as housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay (Health & Safety Code Section 50801).
- 2) Defines "eligible organization" as an agency of local government or a nonprofit corporation that provides, or contracts with community organizations to provide, emergency shelter or transitional housing, or both (Health & Safety Code Section 50801).
- 3) Requires cities and counties to accommodate their need for emergency shelters on sites where the use is allowed without a conditional use permit (Govt. Code Section 65583).
- 4) Provides that shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone except that a local government may apply written, objective standards that include all of the following:
 - a) The maximum number of beds or persons permitted to be served nightly by the facility;
 - b) Off-street parking based upon demonstrated need, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone;
 - c) The size and location of exterior and interior onsite waiting and client intake areas;
 - d) The provision of onsite management;
 - e) The proximity to other emergency shelters, provided that emergency shelters are not required to be more than 300 feet apart;
 - f) The length of stay;
 - g) Lighting; and
 - h) Security during hours that the emergency shelter is in operation.

(Govt. Code Section 65583).

- 5) Defines "domestic violence shelter" as a shelter for domestic violence victims that meets all of the following requirements:
- a) Provides shelter in an undisclosed and secured location; and
 - b) Provides staff that meet specified training requirements.
 - c) Provides the following basic services to victims of domestic violence and their children:
 - i. Shelter on a 24 hours a day, seven days a week basis;
 - ii. A 24 hours a day, seven days a week telephone hotline for crisis calls;
 - iii. Temporary housing and food facilities;
 - iv. Psychological support and peer counseling;
 - v. Referrals to existing services in the community;
 - vi. A drop-in center that operates during normal business hours to assist victims of domestic violence who have a need for support services;
 - vii. Arrangements for school age children to continue their education during their stay at the domestic violence shelter-based program; and
 - viii. Emergency transportation as feasible.

(Welfare & Institutions Code Sections 18291 & 18294)

FISCAL EFFECT: Unknown

COMMENTS:

Need for this bill: According to the author,

"Menstrual products, tampons and pads, are a medical necessity for all people that menstruate. There is no other set of products that one gender has no choice but to use once a month for forty years of their life. Menstrual products were legally recognized as a necessity in a court case in Illinois in 1989. In recognition of their necessity, the state of California provides menstrual products for free in correctional facilities. As a state we need to do more. Food banks and shelters report chronic shortages of tampons and pads. Homeless women struggle to access these products and must often resort to improvising using newspaper or other materials. Similarly, young women sometimes miss school because of a lack of access to these products. A pilot project in New York City to provide menstrual products for free in 25 middle schools

and high schools saw a 2.4% increase in attendance. Providing tampons and pads is about equity and social justice. We provide toilet paper in the bathrooms in schools and shelters—tampons and pads should be no different. This bill seeks to increase access to menstrual products to the girls and women who need it most by providing them for free in schools, colleges and shelters."

Staff comment:

The author points out that the average woman has 456 periods over her lifetime and a single box of tampons costs \$7 at common retailers. Women who are low-income or homeless often have difficulty accessing menstrual products, as the cost of these products is not insignificant. As a result, they may struggle to pay for basic necessities like a box of tampons or pads each month for the majority of their adult life. For homeless women accessing tampons and pads can be especially difficult. Social workers report that these products usually top the list of needed items at shelters because people do not think to donate them.

Tampons and pads are regulated by the Food and Drug Administration (FDA). The classification of tampons as medical devices came soon after the realization that toxic shock syndrome was linked to their use and underscores that these products are necessary health products for women's health. Toxic shock syndrome presents as a high fever, accompanied by low blood pressure, malaise and confusion, which can rapidly progress to stupor, coma, and multiple organ failure. Extending the time tampons are used to save money or the use of high-absorbency tampons increase the likelihood of toxic shock syndrome.

While the state does not currently require shelters to provide menstrual products, local governments may enact these types of requirements. For instance, San Francisco enacted legislation establishing standards of care for its shelters, and these standards require shelters to provide free menstrual products. The City's Shelter Monitoring Committee is charged with documenting the conditions of shelters and resource centers, and investigating client complaints.

This bill would require domestic violence shelters and organizations that provide emergency shelters to provide free menstrual products to all menstruating persons receiving care from the organization or shelter, and requires local governments to monitor compliance by adopting enforcement mechanisms. Organizations or shelters that already have an established standard of care, or are in compliance with a local government's existing standard of care requiring access to free menstrual products, are exempt to the extent that the standard of care or ordinance is consistent with and not in conflict with this bill.

Shelters obtain hygiene supplies through a variety of different public and private funding sources or donations. This bill does not allocate funds to shelters to provide menstrual products.

Other jurisdictions: In June 2016, in a 49-0 vote, the New York City Council approved a measure that would make New York City the first in the United States to give all women in public schools, prisons, and homeless shelters access to menstrual products free of charge. Supporters contended that increasing access to basic menstrual products demonstrates a commitment to advancing gender equity. This legislation followed a successful pilot program during the 2015-16 school year, in which the City placed 380 menstrual product dispensers in 25 middle and high schools. The City reported a 2.4% increase in school attendance during the

pilot program year.

In Ohio, as part of an initiative launched in early 2017 by the Columbus City Council and the Recreation and Parks Department, community recreation centers and homeless shelters across Columbus will be stocked with menstrual products. The initiative in Columbus homeless shelters marks the first effort in Ohio towards providing free and accessible menstrual products for women in shelters.

Other jurisdictions have proposed legislation to provide free menstrual products in public buildings and/or schools, including New York State in 2015 and Wisconsin in 2015. Neither of these bills was successful. Five states currently have similar measures pending before their legislative bodies, including Illinois, Maryland, Connecticut, Tennessee, and South Carolina.

Committee Amendments:

This bill is analyzed as proposed to be amended. The Committee amendments provide that local governments, rather than the Department of Housing and Community Development, shall enforce the requirements of the bill. They also make technical, clarifying changes.

1. In the title, in line 2, strike out "Section 50410" and insert:

Division 30 (commencing with Section 46090)

2. On page 4, strike out lines 4-14, inclusive, and insert:

SEC. 3: Division 30 (commencing with section 46090) is added to the Health & Safety Code, to read:

- a) To prevent unnecessary medical emergencies among homeless Californians, an eligible organization providing emergency shelter as defined in Section 50801 of the Health and Safety Code and a domestic violence shelter as defined in subdivision (c) of Section 18291 of the Welfare and Institutions Code shall ensure adequate and timely access to free menstrual products to all menstruating persons who receive services from the organization or shelter.
- b) If an organization or shelter already has an established standard of care or is in compliance with a city, county, or city and county ordinance requiring access to free menstrual products, and the standard of care or ordinance is consistent with and not in conflict with this section, the organization or shelter shall be exempt from the requirements of this section. If any funding were to be made available to an organization or shelter to carry out the requirements of this section, nothing in this section shall be construed to prohibit an exempt organization or shelter from seeking that funding and being reimbursed for costs associated with providing free menstrual products to persons served by the organization or shelter.
- c) A city, county, or city and county with at least one organization or shelter within its jurisdiction which is subject to the requirements of this section and not exempt pursuant

to subdivision (b) shall adopt an ordinance establishing enforcement mechanisms for an organization or shelter to comply with the requirements of this section.

- d) (1) Each city or county, or city and county, subject to this section shall compile and submit a report documenting compliance with this section to the Assembly Housing and Community Development Committee and the Senate Transportation and Housing Committee no later than January 1, 2020.
(2) This subdivision shall become inoperative on January 1, 2022, pursuant to Section 10231.5 of the Government Code.
- e) For purposes of this division, “menstrual products” means tampons and sanitary napkins for use in connection with the menstrual cycle.
- f) Nothing in this division shall be construed to prohibit a city, county, or city and county from enacting or enforcing an ordinance consistent with and not in conflict with this division.
- g) Nothing in this division shall be construed to prohibit a city, county, or city and county to, by ordinance, require other entities not subject to this division from providing menstrual products to the people they serve.

Related legislation:

AB 9 (Garcia, 2016): Would establish a sales and use tax exemption for tampons, sanitary napkins, menstrual sponges, and menstrual cups. *This bill is pending in the Assembly Committee on Revenue and Taxation.*

AB 1561 (Garcia, 2016): Would have established a sales and use tax exemption for tampons, sanitary napkins, menstrual sponges, and menstrual cups. *This bill was vetoed by the Governor.*

Double referred: This bill is double referred. It was heard in the Assembly Committee on Education and passed out on a vote of 6-1 on March 15, 2017.

REGISTERED SUPPORT / OPPOSITION:

Support

ACLU of California
ACT for Women and Girls
Alliance of Californians for Community Empowerment
American Academy of Pediatrics, California
American Association of University Women
American Congress of Obstetricians and Gynecologists, District IX
American Federation of State, County and Municipal Employees, AFL-CIO
Associated Students Inc. at Sacramento State
California Asset Building Coalition
California Child Care Resource & Referral Network
California Domestic Workers Coalition
California Employment Lawyers Association

California Faculty Association
California Hunger Action Coalition
California Latinas for Reproductive Justice
California Partnership
California School Nurses Organization
California State PTA
California Women's Law Center
California Work and Family Coalition
Career Ladders Project
Center for Popular Democracy
Child Care Law Center
Children's Defense Fund - California
Courage Campaign
Equal Rights Advocates
9 to 5
Faculty Association of California Community Colleges
Ladders Project
Latino Coalition for a Healthy California
Legal Aid at Work
Mujeres Unidas y Activas
NARAL Pro-Choice California
National Council of Jewish Women, Los Angeles
Parent Voices CA
Raising California Together
St. Anthony's Foundation
Stronger California Advocates Network
Student Senate for California Community Colleges
The Opportunity Institute
Tradeswomen, Inc.
UFCW Western States Council
Voices for Progress
Western Center on Law and Poverty
Women's Foundation of California
YWCA San Francisco & Marin

Opposition

California Right to Life Committee

Analysis Prepared by: Rebecca Rabovsky / H. & C.D. / 916-319-2085