

Date of Hearing: March 15, 2017

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
AB 10 (Cristina Garcia) – As Amended March 7, 2017

[Note: This bill is doubled referred to the Assembly Housing and Community Development Committee and will be heard by that Committee as it relates to issues under its jurisdiction.]

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

SUMMARY: Requires every public and private school serving kindergarten through grade 12 to ensure that restrooms are stocked at all times with feminine hygiene products. Specifically, **this bill:**

- 1) Adds feminine hygiene products to the list of supplies required to be stocked in public and private school restrooms, for those schools enrolling students in any of kindergarten through 12th grade, at all times.
- 2) Makes other requirements regarding feminine hygiene product availability at postsecondary institutions as well as specified emergency housing shelters and domestic violence shelters.

EXISTING LAW:

- 1) Requires that public and private schools enrolling students from Kindergarten through 12th grade ensure that every restroom is maintained and cleaned regularly, fully operational and stocked at all times with toilet paper, soap and paper towels or functional hand dryers (ECS 35292.5).
- 2) Requires that, as a condition of participation in the school facilities program, school districts establish a facilities inspection system to ensure that each of its schools is maintained in good repair (ECS 17070.75(f)) through the use of the Facility Inspection Tool created by the Office of Public School Construction, or a local evaluation instrument that meets the same criteria (ECS 17002).
- 3) Defines “Good Repair” for school facilities to mean that, among other items, restrooms and restroom fixtures are functional and appear to be maintained and stocked with supplies regularly (ECS 17002).
- 4) Requires that the safety, cleanliness and adequacy of school facilities, including any needed maintenance to ensure good repair, be reported on the School Accountability Report Card (ECS 33126).

FISCAL EFFECT: The Office of Legislative Counsel has keyed this bill as a state-mandated local program.

COMMENTS:

Need for the bill. According to the author, “Feminine hygiene products are a necessity for the health, well-being, and full participation for those who menstruate. No person who menstruates should ever need to worry about access to tampons or sanitary pads. These products are medical necessities for half of our population and as a state California should not wait to lead the country to increase access to these products.”

Supporters note that the provision of feminine hygiene products in schools would support all pupils who menstruate in reaching their full potential, irrespective of their socio-economic status. Alternatively, lack of access to these products can keep pupils from attending school, distract them from their studies or keep them from participating in sports activities.

Applicable to all schools. Supporters note that, as some pupils begin menstruating as early as 4th or 5th grade, the need for feminine hygiene products would apply to elementary schools as well as middle and high schools.

Dangers of toxic shock syndrome. While some pupils who menstruate may choose to reduce the cost of feminine hygiene products by reducing the time between changing the product, this choice can have a deathly health consequences caused by Toxic Shock Syndrome (TSS). In 1980 the Center for Disease Control (CDC) established a close association between incidents of TSS and tampon use. The potentially fatal disease causes fever, shock, low blood pressure, skin rashes and liver and kidney abnormalities. In 1982 the Federal Drug Administration (FDA) required that menstrual tampon packages contain a brief statement alerting consumers to the dangers of TSS, including the risk to all women using tampons during their menstrual period, especially the reported higher risks to women under 30 years of age and teenage girls. The package warnings were also to include information on the incidence of TSS of 6 to 17 per 100,000 menstruating women and girls per year and the risk of death from contracting TSS.

Restroom maintenance in California schools. SB 892 of 2003, the “Clean Restroom Act” established the requirement that every public and private school enrolling students from kindergarten through grade 12, ensure that restrooms be kept open during school hours, maintained and cleaned regularly, be fully operational and stocked at all times with toilet paper, soap, and paper towels or functional hand dryers.

Schools participating in the school facilities program are required to have annual facility inspections and report the results on their School Accountability Report Card. The Office of Public School Construction Facility Inspection Tool (FIT) or a comparable locally developed tool may be used during these inspections to determine if a school facility is in “good repair”. The FIT includes the evaluation of the degree to which restrooms are maintained and cleaned regularly; are fully operational; are stocked with toilet paper, soap, and paper towels; and are open during school hours. As the use of the FIT is only required for those schools participating in the school facility program, the oversight of this updated requirement to stock feminine hygiene products would be limited to those schools.

Adding feminine hygiene products to the list of supplies required to be stocked in school restrooms would require an update to the FIT produced by the Office of Public School Construction. This could be accomplished administratively, subject to the approval of the State Allocation Board.

Another possible form of oversight for this new requirement could be through the Uniform Complaint Process (UCP). All school districts are required to have a UCP in place to allow individuals to file complaints, including those related to the school's responsibility to ensure that facilities are clean, safe, and maintained in good repair.

Other jurisdictions. New York City adopted legislation in July 2016 requiring the Department of Education to make free feminine hygiene products available to students in the bathrooms of school buildings, in which there are female students in grades 6 to 12. The intent of the legislation was to ensure that students have the support they need to focus on learning and feel comfortable in the classroom. Supporters also pointed out that increasing access to basic feminine hygiene 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 dispensers in 25 middle and high schools. The City reported a 2.4% increase in school attendance during the pilot program year.

Other jurisdictions have proposed legislation to provide free menstrual hygiene 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.

Prior and similar legislation. AB 9 (C. Garcia) of this Session, would exempt the sale of tampons, sanitary napkins, menstrual sponges, and menstrual cups from sales taxes.

AB 1561 (C. Garcia) of the 2015-2016 Session, which was vetoed by the Governor, would have exempted the sale of tampons, sanitary napkins, menstrual sponges, and menstrual cups from sales taxes during the period from 2017 through 2022.

Chapter 923, statutes of 2004 (SB 971, Huff) eliminated the requirement, established by SB 892 in 2003, for schools to submit reports to the Office of Public School Construction on the responses to restroom maintenance complaint forms.

Chapter 900, statutes of 2004 (SB 550, Vasconcellos) authorized school districts to use the uniform complaint process to help identify and resolve any deficiencies related to instructional materials, the condition of a facility that is not maintained in a clean or safe manner or in good repair, and teacher vacancy or misassignment.

Chapter 909, statutes of 2003 (SB 892, Murray) established the requirement that every public and private school have restroom facilities that are open as prescribed during school hours, and at all times to keep every restroom maintained and cleaned regularly, fully operational, and stocked with soap and paper supplies.

REGISTERED SUPPORT / OPPOSITION:

Support

American Federation of State, County and Municipal Employees (AFSCME)
American Civil Liberties Union of California
American Congress of Obstetricians and Gynecologists
A Stronger California: Securing Economic Opportunity for all Women

California Latinas for Reproductive Justice
California School Nurses Organization
Courage Campaign
Downtown Women's Action Coalition
Equal Rights Advocates
National Council of Jewish Women, Los Angeles
San Francisco Living Wage Coalition
Western Center on Law & Poverty

Opposition

California Right to Life Committee

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