

Date of Hearing: April 25, 2018

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
AB 2570 (Nazarian) – As Amended April 17, 2018

SUBJECT: School facilities: Clean and Healthy Schools Act: environmentally preferable cleaning and cleaning maintenance products

SUMMARY: Establishes the Clean and Healthy Schools Act, and requires, by the 2021-22 school year, or when it is economically feasible, school districts and nonpublic elementary and secondary schools with 50 or more pupils to purchase exclusively environmentally preferable cleaning and cleaning maintenance products, if an environmentally preferable cleaning and cleaning maintenance product exists. Specifically, **this bill:**

- 1) Establishes the following definitions for the purposes of this bill:
 - a) “Economically feasible” means that there is no net increase in the cleaning costs of a school.
 - b) “Environmentally preferable cleaning and cleaning maintenance product” means a product, including, but not limited to, institutional cleaners for furniture, counters, restrooms, glass, carpets, or floors, that meets independent, third-party certification criteria for lesser or reduced effects on human health and the environment compared with competing goods or services that serve the same purpose. “Environmentally preferable cleaning and cleaning maintenance product” does not include a product that must be labeled pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986 (Chapter 6.6 (commencing with Section 25249.5) of Division 20 of the Health and Safety Code).
 - c) “Third-party certification” means certification by an established, independent program developed for the purpose of identifying environmentally preferable products and that meets, at a minimum, all of the following criteria:
 - i) Has a formal process of open participation and consultation among interested parties.
 - ii) Clearly defines the fees a manufacturer must pay for certification.
 - iii) Clearly avoids conflicts of interest in the standard setting and product evaluation process.
 - iv) Has the criteria and standards for certification published and publicly available and easily accessible to purchasers, manufacturers, and the general public, such as through the program's Internet Web site, and includes a list of certified products that meet the standards.
 - v) Bases certification of the product and its packaging on criteria for product performance and efficacy, reducing effects on human health and safety, including effects on children, ecological toxicity, other environmental impacts, and resource

- conservation, including, at a minimum, consideration of chemicals that cause cancer, mutagenic and reproductive harm, organ and nervous system damage, asthma, smog, ozone depletion, aquatic toxicity, bioaccumulation, and eutrophication.
- vi) Development and selection of criteria are based on sound scientific and engineering principles and data that support the claim of environmental preferability.
 - vii) Certification standards remain consistent with current research about the potential impact of chemicals on human health and the environment.
 - viii) Monitors and enforces compliance with standards, provides for the authority to inspect the manufacturing facilities, and periodically does so.
 - ix) Has a registered, legally protected certification mark or a mark protected by other means so that it may be misappropriated.
 - x) If possible, is developed by consensus among key stakeholders.
 - xi) Establishes a leadership level in standards for products.
- 2) Specifies that for antimicrobial cleaning products, the school district or school shall strive to use environmentally preferable products, but may use other antimicrobials regulated under the Federal Insecticide, Fungicide, and Rodenticide Act.
 - 3) Authorizes a school district or school to deplete its existing cleaning and maintenance supply stocks and implement the new requirements in the next procurement cycle.
 - 4) Specifies that if a school district or school determines that it is not economically feasible to purchase environmentally preferable cleaning and cleaning maintenance products by the 2021-22 school year, the school district or school shall submit a letter indicating that it will not purchase environmentally preferable cleaning and cleaning maintenance products to the California Department of Education (CDE) and the governing board of the school district or governing body of the nonpublic school, annually, until it determines that it is economically feasible to comply with the requirements of this bill. Requires the letter to provide the details on the reasons compliance is not feasible and the letter or the explanation to be posted on the school district's or school's public Internet Web site with a notification titled "Reasons for Noncompliance with the Clean and Healthy Schools Act."
 - 5) Requires the CDE to post information on its Internet Web site to assist school districts and schools in complying with the provisions of this bill.
 - 6) Specifies that this bill sets minimum standards for cleaning products used in schools. Nothing shall prevent local jurisdictions from adopting guidelines that are more stringent.
 - 7) Makes a number of findings and declarations, including the following:
 - a) The vulnerability of children to exposure to chemicals, hazardous waste, and other environmental hazards.

- b) The benefits of clean indoor air quality, including reduction in the incidence of asthma, allergies, and absenteeism in pupils, increased teacher retention rates, and reduced worker compensation claims.
- c) Third-party, independent, voluntary certification programs exist that set standards for, and evaluate, environmentally preferable cleaning and cleaning maintenance products. The current standards establish environmental requirements for industrial and institutional general-purpose, restroom, glass, carpet cleaners, floor care products, and handsoaps, intended for routine cleaning of offices, schools, and institutions, and include consideration of vulnerable populations in institutional settings, such as schools and day-care facilities.

EXISTING LAW:

- 1) Expresses declarations and findings regarding the danger of art supplies containing toxic substances. (Education Code (EC) Section 32060)
- 2) Beginning with the 1987-88 school year, prohibits schools, school districts or governing authority of a private school from purchasing or ordering art or craft material that is deemed by the State Department of Health Services to contain a toxic substance or a toxic substance causing chronic illness, for use by students in kindergarten through grade 6. (EC Section 32064)
- 3) Beginning June 1, 1987, prohibits schools, school districts or governing authority of a private school from purchasing or ordering any substance that is deemed by the State Department of Health Services to contain a toxic substance or a toxic substance causing chronic illness, for use by students in grades 7 through 12, unless it meets specified labeling standards. (EC Section 32064)
- 4) Establishes the Healthy Schools Act and specifies that it is the policy of the state that effective least toxic pest management practices should be the preferred method of managing pests at schoolsites, and that the state shall take the necessary steps to facilitate the adoption of effective least toxic pest management practices at schools. (EC Section 17610)

FISCAL EFFECT: Unknown

COMMENTS: The author states, “More than 1 in 5 Californians – including over 6 million children – spend their day in a school. Cleaning products used in schools contain a wide variety of hazardous chemicals that can cause asthma, allergies, cancer, reproductive harm, and damage to the body's nervous system and internal organs. While more and more school districts have switched to less-toxic, environmentally preferable cleaning products (or "green" cleaners), conventional cleaning products are still widely used.

“Of particular concern is the link between cleaning products and asthma, since asthma is the leading cause of absenteeism from a chronic illness among California's school children, and is the primary cause of hospitalization for children under the age of 15. In California, nearly 1 million children have asthma (about 1 in 6).”

The United States Environmental Protection Agency reports that all building occupants are potentially exposed to the volatile components of cleaning products. Choosing less hazardous products that have positive environmental attributes (e.g., biodegradability, low toxicity, low volatile organic compound content, reduced packaging, low life cycle energy use) and taking steps to reduce exposure can minimize harmful impacts to custodial workers and building occupants, improve indoor air quality, and reduce water and ambient air pollution while also ensuring the effectiveness of cleaning in removing biological and other contaminants from the building's interior. The California Department of Public Health's (CDPH) Occupational Health Branch, which tracks asthma and chemical exposures related to work, found that 12.5% of the work-related asthma cases in its surveillance database were related to cleaning products.

A guide titled "Healthy Cleaning and Asthma-Safer Schools" published by the CDPH in 2014 states that "a paradox exists for how most of our schools are cleaned. While we're trying to get rid of dirt and germs to keep students and staff healthy, we may unintentionally expose them to harmful chemicals in cleaning products, sanitizers, and disinfectants. Some conventional products like floor strippers and bathroom cleaners, or ingredients like ammonia and bleach, can pose avoidable risks for our health, our environment, and our equipment." According to the report, a number of states, including Connecticut, Hawaii, Illinois, Iowa, Maine, Maryland, Missouri, Nevada, New York, and Vermont, and California school districts, including San Diego Unified School District, Santa Monica-Malibu Unified School District, Fairfield-Suisun Unified School District, and Elk Grove Unified School District, have moved to using green cleaning products.

This bill requires all school districts and private elementary and secondary schools with 50 or more pupils to purchase environmentally preferable cleaning and cleaning maintenance products if an environmentally preferable cleaning and cleaning maintenance product exists. The bill authorizes a school district to deplete its existing supply and purchase environmentally preferable products in the next procurement cycle.

What are "environmentally preferable" products? The federal government, through Executive Order 13101, defines "environmentally preferable" as "products or services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance or disposal of the product or service."

This bill defines environmentally preferable products as institutional cleaners for furniture, counters, restrooms, glass, carpets, or floors, that meets independent, third-party certification criteria for lesser or reduced effects on human health and the environment compared with competing goods or services that serve the same purpose, and excludes any product that must contain a Proposition 65 label indicating that the product contains a chemical that is known to cause cancer or birth defects or other reproductive harm. The bill specifies that for antimicrobial cleaning products, the school district or school shall strive to use environmentally preferable products, but may use other antimicrobials that are regulated by the Federal Insecticide, Fungicide, and Rodenticide Act. Antimicrobial products include disinfectants and sanitizers that are regulated only by the U.S. EPA.

Cost. State and local public agencies that have transitioned to green cleaning products report that there is either little or no cost increase between conventional cleaners and green certified

cleaners. Green cleaners come in concentrate. Automatic dilution equipments provide the proper measurement of cleaning solution. Many entities that use these products have been able to eliminate duplicative and unnecessary products. According to the Healthy Schools Network, Inc., a New York environmental health organization, New York's Office of General Services' Environmental Unit report that "the price point for conventional and certified green products are virtually the same. Any increase in the initial purchase of green products is more than offset by the ease of use, reduction in number of products to buy, and the use of 'dilution stations' that control the actual volume of chemical use automatically and effectively."

Other examples include:

- The San Diego Unified School District reduced its budget by 20% by using one line of chemicals and eliminating unnecessary cleaning products.
- The City of Santa Monica documented a 5% price savings after the switch to green cleaners.
- The Novato Unified School District negotiated a contract for purchasing green cleaners at the same prices as the conventional cleaners.
- The City and County of San Francisco replaced 13 out of 14 janitorial cleaning products at no increased cost.

This bill authorizes a school district or school to delay implementation of the bill if it determines that it not economically feasible to do so. Economically feasible is defined as resulting in no net increase to the cleaning costs of a school. A school district or school that chooses to delay implementation must submit a letter to the governing board or governing body of the private school annually until it complies with the requirement. The letter must be titled "Reasons for Noncompliance with the Clean and Healthy Schools Act" and provide the reasons compliance is not feasible.

Third party certification. There are several independent organizations that review products based on specified standards. Green Seal is based in the United States, EcoLogo is a Canadian program, and the U.S. EPA certifies products through Safer Choice. Most public agencies that have adopted policies to use green cleaners use products certified by one or more of those three entities.

The Occupational Health Branch of the CDPH advises that "there are many 'green' claims being made to sell cleaning products. Product labels tout that the ingredients are 'natural', 'organic', and 'Earth-friendly.' But how can buyers sort out which claims are meaningful and which aren't? The best way is to seek out products that have been certified by third-party organizations that issue openly published standards developed in a process that involves all types of stakeholders."

The CDPH guide for schools also recommends buying products certified by a third party. The guide further states that the products that are certified meet stringent guidelines and that not every company that applies succeeds in getting its products certified.

California's Department of General Services has a policy requiring state purchases to meet environmentally preferable (EPP) or green standards. Under the policy, all janitorial supply products must be certified by at least one Third-Party Environmental Certification program. State agencies purchase EPP approved products through the CalPIA (the California Prison Industry). Public agencies, including school districts, can also purchase environmentally preferable products through the CalPIA.

For purposes of this bill, authorized products are those that have been certified by a third-party organization that meets eleven criteria specified in the bill. According to the author, Green Seal, EcoLogo and Safer Choice meet the criteria.

Despite the reliance on these three organizations, there are criticisms that one or more of the organizations certify products with toxic chemicals, including products that would be required to post a Proposition 65 warning label. This bill excludes cleaners that must post a Proposition 65 label. However, the author may wish to consider how school districts or schools will determine which products are eligible to be used under this bill if a product certified by a third-party contains a chemical that falls under a Proposition 65 list.

Opponents of the use of third party certifications also charge a "pay to play" scheme as manufacturers must pay for the review of their products. As an alternative, those in the anti-third-party certification camp suggest directing a state agency to develop a state-authorized cleaning products list.

Arguments in support. The Service Employees International Union (SEIU) states, "SEIU represents classified employees in some of the most populous school districts. Our members provide vital educational support, school safety services, maintenance and operations, technical, administrative, language support and cafeteria services. Our members are dedicated to supporting their schools and their students. This bill would help protect the health of our members and their students. Cleaning products used in schools contain a wide variety of hazardous chemicals that can cause asthma, allergies, cancer, reproductive harm, and damage to the body's nervous system and internal organs. And janitorial staff are exposed to these hazardous chemicals every day they are used."

Arguments in opposition. A joint letter submitted by the opposition states that they support the goal of improving environmental health indoors, but have concerns that the bill contains inconsistencies, may not provide sufficient product certification alternatives, and contains misleading legislative intent language.

Previous legislation. AB 821 (Brownley), introduced in 2009, is substantially similar to this bill. The bill was held on the Assembly Appropriations Committee's suspense file.

AB 2808 (Garcia) is also a similar bill. The bill was held on the Assembly Appropriations Committee's suspense file in 2008.

REGISTERED SUPPORT / OPPOSITION:

Support

Environmental Working Group (sponsor)

American College of Obstetricians and Gynecologists
California Teachers Association
Clean Water Action
Educate. Advocate.
Empower Family California
Regional Asthma Management and Prevention Program
SEIU
Seventh Generation Advisors
Women's Voices for the Earth

Opposition

American Chemistry Council
California Chamber of Commerce
California Manufacturers & Technology Association
Grocery Manufacturers Association
Household & Commercial Products Association
RISE
Western Plant Health Association

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