

Senate Bill No. 1358

Passed the Senate August 29, 2014

Secretary of the Senate

Passed the Assembly August 29, 2014

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Sections 15805 and 50535 to the Government Code, and to amend Section 114276 of, and to add Section 118506 to, the Health and Safety Code, relating to public accommodations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1358, Wolk. Baby diaper changing stations.

(1) Existing law establishes and imposes on state and local agencies various requirements relating to the acquisition, construction, and renovation of public buildings.

This bill would require new construction or renovation, as specified, of a public building, as specified, that is owned by a state or a local agency, or a portion of a building that is owned by a state or local agency and includes at least one restroom that is open to the public, to provide on each floor level containing one or more restrooms that are accessible to the public at least one safe, sanitary, and convenient baby diaper changing station, as specified. The bill would require each station to be maintained, repaired, and replaced as necessary to ensure safety and ease of use, and to be cleaned with the same frequency as the restroom in which it is located. By imposing a higher level of service on local agencies, the bill would impose a state-mandated local program.

(2) Existing law, the California Retail Food Code, establishes uniform health and sanitation standards for retail food facilities and provides for the enforcement of those standards by local health agencies and by the State Department of Public Health, as specified. Among other sanitation standards, the code requires a permanent food facility to provide clean toilet facilities in good repair for consumers, guests, or invitees if the food facility was constructed after July 1, 1984, and has more than 20,000 square feet of floor space. A violation of these provisions is a crime.

This bill would require a permanent food facility, as specified, to provide a clean baby diaper changing station in good repair for consumers, guests, or invitees. By creating a new crime and by imposing a higher level of service on local health agencies, the bill would impose a state-mandated local program.

(3) Existing law also requires publicly and privately owned facilities where the public congregates to be equipped with sufficient restrooms to meet the needs of the public at peak hours.

This bill would require various facilities, including a theater, sports arena, or library, to install and maintain at least one baby diaper changing station if the facility is open to the public, as specified.

(4) The bill would set forth findings and declarations stating that ensuring that safe, sanitary, and convenient baby diaper changing stations are widely available throughout the state is a matter of statewide concern.

(5) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

SECTION 1. Section 15805 is added to the Government Code, to read:

15805. (a) A public building that is owned by a state agency, or a portion of a building that is owned by the state and includes at least one restroom that is open to the public, shall provide on each floor level containing one or more restrooms that are accessible to the public at least one safe, sanitary, and convenient baby diaper changing station that is accessible to women entering a restroom provided for use by women and at least one safe, sanitary, and convenient baby diaper changing station that is accessible to men entering a restroom provided for use by men, or at least one safe, sanitary, and convenient baby diaper changing station that is accessible to both men and women. Each station shall include signage at or near the entrance to the station indicating the location of the baby diaper changing station. If there is a central

directory identifying, for the benefit of the public, the location of offices, restrooms, and other facilities in the building, that central directory shall indicate the location of the baby diaper changing stations. Each baby diaper changing station shall be maintained, repaired, and replaced as necessary to ensure safety and ease of use, and shall be cleaned with the same frequency as the restroom in which it is located.

(b) (1) Subdivision (a) applies to all new construction, and, except as otherwise provided in paragraph (2), to all renovations of bathrooms for which a permit has been obtained, in which the estimated cost of the new construction or renovation is ten thousand dollars (\$10,000) or more.

(2) Subdivision (a) does not apply to a renovation if a local building permitting entity or building inspector determines that the installation of a baby diaper changing station is not feasible or would result in a failure to comply with applicable building standards governing the right of access for persons with disabilities. The permitting entity or building inspector may grant an exemption from the requirements of this section under those circumstances.

SEC. 2. Section 50535 is added to the Government Code, to read:

50535. (a) A public building that is owned by a local agency, or a portion of a building that is owned by a local agency and includes at least one restroom that is open to the public, shall provide on each floor level containing one or more restrooms that are accessible to the public at least one safe, sanitary, and convenient baby diaper changing station that is accessible to women entering a restroom provided for use by women and at least one safe, sanitary, and convenient baby diaper changing station that is accessible to men entering a restroom provided for use by men, or at least one safe, sanitary, and convenient baby diaper changing station that is accessible to both men and women. Each station shall include signage at or near the entrance to the station indicating the location of the baby diaper changing station. If there is a central directory identifying, for the benefit of the public, the location of offices, restrooms, and other facilities in the building, that central directory shall indicate the location of the baby diaper changing stations. Each baby diaper changing station shall be maintained, repaired, and replaced as necessary to

ensure safety and ease of use, and shall be cleaned with the same frequency as the restroom in which it is located.

(b) (1) Subdivision (a) applies to all new construction and, except as otherwise provided in paragraph (2), to all renovations of bathrooms, for which a permit has been obtained, in which the estimated cost of the new construction or renovation is ten thousand dollars (\$10,000) or more.

(2) Subdivision (a) does not apply to a renovation if a local building permitting entity or building inspector determines that the installation of a baby diaper changing station is not feasible or would result in a failure to comply with applicable building standards governing the right of access for persons with disabilities. The permitting entity or building inspector may grant an exemption from the requirements of this section under those circumstances.

SEC. 3. Section 114276 of the Health and Safety Code is amended to read:

114276. (a) A permanent food facility shall provide clean toilet facilities in good repair for use by employees.

(b) (1) (A) A permanent food facility shall provide clean toilet facilities in good repair for consumers, guests, or invitees when there is onsite consumption of foods or when the food facility was constructed after July 1, 1984, and has more than 20,000 square feet of floor space.

(B) (i) A permanent food facility that is required to install and maintain at least one baby diaper changing station pursuant to Section 118506 shall provide a clean baby diaper changing station or stations in good repair for consumers, guests, or invitees.

(ii) Notwithstanding Section 114395, the first violation of clause (i) shall result in a warning. Each subsequent violation shall constitute an infraction punishable by a fine of not more than two hundred fifty dollars (\$250).

(2) Notwithstanding Section 113984.1, toilet facilities that are provided for use by consumers, guests, or invitees shall be in a location where consumers, guests, and invitees do not pass through food preparation, food storage, or utensil washing areas to reach the toilet facilities.

(3) For purposes of this section, a building subject to paragraph (1) that has a food facility with more than 20,000 square feet of floor space shall provide at least one separate toilet facility for men and one separate toilet facility for women.

(4) For purposes of this section, the gas pump area of a service station that is maintained in conjunction with a food facility shall not be considered as property used in connection with the food facility or be considered in determining the square footage of floor space of the food facility.

(c) (1) Toilet rooms shall be separated by well-fitted, self-closing doors that prevent the passage of flies, dust, or odors.

(2) Toilet room doors shall be kept closed except during cleaning and maintenance operations.

(d) Handwashing facilities, in good repair, shall be provided as specified in Sections 113953 and 113953.3.

(e) Any city, county, or city and county may enact ordinances that are more restrictive than this section.

(f) (1) Except as provided in paragraph (1) of subdivision (b), any building that is constructed before January 1, 2004, that has a food facility that provides space for the consumption of food on the premises shall either provide clean toilet facilities in good repair for consumers, guests, or invitees on property used in connection with, or in, the food facility or prominently post a sign within the food facility in a public area stating that toilet facilities are not provided.

(2) The first violation of paragraph (1) shall result in a warning. Subsequent violations shall constitute an infraction punishable by a fine of not more than two hundred fifty dollars (\$250).

(3) The requirements of this section for toilet facilities that are accessible to consumers, guests, or invitees on the property may be satisfied by permitting access by those persons to the toilet and handwashing facilities that are required by this part.

SEC. 4. Section 118506 is added to the Health and Safety Code, to read:

118506. (a) (1) A theater or movie house, grocery store, health facility, convention center, sports arena, auditorium, cultural complex, exhibition hall, library, passenger terminal, permanent amusement park structure, restaurant with a seating capacity of at least 50 seats, shopping center of more than 25,000 square feet, tourist attraction, or retail store of more than 5,000 square feet shall install and maintain at least one baby diaper changing station if the facility is open to the public. There shall be at least one safe, sanitary, and convenient baby diaper changing station that is accessible to women entering a restroom provided for use by

women and one that is accessible to men entering a restroom provided for use by men, or at least one safe, sanitary, and convenient baby diaper changing station that is accessible to both men and women.

(2) This section does not apply to an industrial building or to a nightclub or bar that does not permit anyone who is under 18 years of age to enter the premises. This section also does not apply to a restroom located in a health facility if the restroom is intended for the use of one patient or resident at a time.

(b) This section shall not be enforceable by a private right of action.

(c) (1) Subdivision (a) applies to all new construction, and, except as otherwise provided in paragraph (2), to all renovations of bathrooms for which a permit has been obtained, in which the estimated cost of the new construction or renovation is ten thousand dollars (\$10,000) or more.

(2) Subdivision (a) does not apply to a renovation if a local building permitting entity or building inspector determines that the installation of a baby diaper changing station is not feasible or would result in a failure to comply with applicable building standards governing the right of access for persons with disabilities. The permitting entity or building inspector may grant an exemption from the requirements of subdivision (a) under those circumstances.

(d) For purposes of this section, the following definitions shall apply:

(1) “Health facility” has the meaning set forth in Section 1250.

(2) “Restaurant with a seating capacity of at least 50 seats” does not apply to a restaurant if there is centrally located facility with a baby diaper changing station located within 300 feet of the entrance to the restaurant.

SEC. 5. The Legislature finds and declares that ensuring safe, sanitary, and convenient baby diaper changing stations are widely available throughout the state is a matter of statewide concern, and not a municipal affair. Therefore, Section 2 of this act is applicable to charter cities, charter counties, and charter cities and counties. The Legislature encourages the University of California to comply with Section 1 of this act.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district

because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Approved _____, 2014

Governor