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**Date:** September 22, 2003

**Code:** HR 2003-19

**To:** CSU Presidents

**From:** Jackie R. McClain  
Vice Chancellor  
Human Resources



**Subject:** Smoking: Public Buildings

AB 846, signed into law by Governor Davis, imposes new smoking restrictions on public buildings, effective January 1, 2004. Current California law prohibits state employees, and members of the general public, from smoking inside of, or within five feet, of a main entrance or exit to any state-owned or state-occupied building. AB 846 increased the distance restriction to 20 feet and now includes all operable windows, in addition to entrances and exits. The new law continues the exemption for residential space and continues the prohibition on smoking in state-owned vehicles. Christine Helwick advised you in a separate memo September 12, 2003, of the law and campus impact issues. AB 846 is attached for reference.

State agencies are free to adopt other smoking and tobacco control regulations that are more restrictive than AB 846; therefore, campuses may continue or adopt regulations that are more restrictive than this new law. Coded Memoranda HR 2002-26, Secondhand Smoking Policy, issued October 15, 2002, advised that Title 5, California Code of Regulations, was changed to delegate authority to presidents and the chancellor to adopt rules regarding regulation of secondhand smoking to all individuals, including members of the public. The policy is available at <http://www.calstate.edu/HRAAdm/pdf2002/HR2002-26.pdf>.

Please review your campus smoking policies to ensure compliance with AB 846 and update as needed, no later than January 1, 2004.

If you have any questions about this new law, please contact Human Resources or your campus counsel, as appropriate. This document is available on the Human Resources Administration's Web site at: <http://www.calstate.edu/HRAAdm/memos.shtml>.

JRMcC/cr

Attachment

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**Distribution:**

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Assembly Bill No. 846

CHAPTER 342

An act to amend Sections 19994.30 and 19994.33 of, to amend the heading of Chapter 5.6 (commencing with Section 19994.30) of Part 2.6 of Division 5 of, to add Chapter 32 (commencing with Section 7596) to Division 7 of Title 1 of, and to repeal Sections 19994.31 and 19994.32 of, the Government Code, relating to tobacco.

[Approved by Governor September 8, 2003. Filed  
with Secretary of State September 8, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

AB 846, Vargas. Smoking: public buildings.

Existing law prohibits any state employee or member of the public from smoking a tobacco product inside a state-owned or state-occupied building, or a state-leased and state-occupied building, as defined, or within 5 feet of the main exit or entrance of these buildings, or in a passenger vehicle owned by the state.

This bill would instead prohibit smoking inside a public building, as defined, and within 20 feet of a main exit, entrance, or operable window of a public building. It would also provide that these provisions would not preempt the authority of any county, city, city and county, California Community College campus, campus of the California State University, or campus of the University of California to adopt and enforce additional smoking and tobacco control ordinances, regulations, or policies that are more restrictive than the standards required by this bill.

This bill would also make other technical, nonsubstantive, and conforming changes to these provisions.

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

SECTION 1. Chapter 32 (commencing with Section 7596) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 32. SMOKING IN PUBLIC BUILDINGS

7596. As used in this chapter:

(a) "Public building" means a building owned and occupied, or leased and occupied, by the state, a county, a city, a city and county, or a California Community College district.

(1) "Inside a public building" includes all indoor areas of the building, except for covered parking lots, residential space, and state prison yard areas. "Inside a public building" also includes any indoor space leased to the state, county, or city, except for covered parking lots and residential space.

(2) "Residential space" means a private living area, but it does not include common areas such as lobbies, lounges, waiting areas, elevators, stairwells, and restrooms that are a structural part of a multicomplex building such as a dormitory.

(b) "State" or "state agency" means a state agency, as defined pursuant to Section 11000, the Legislature, the Supreme Court and the Courts of Appeal, and each campus of the California State University and the University of California.

(c) "Public employee" means an employee of a state agency or an employee of a county or city.

7597. (a) No public employee or member of the public shall smoke any tobacco product inside a public building, or in an outdoor area within 20 feet of a main exit, entrance, or operable window of a public building, or in a passenger vehicle, as defined by Section 465 of the Vehicle Code, owned by the state.

(b) This section shall not preempt the authority of any county, city, city and county, California Community College campus, campus of the California State University, or campus of the University of California to adopt and enforce additional smoking and tobacco control ordinances, regulations, or policies that are more restrictive than the applicable standards required by this chapter.

7598. Except as provided in Section 7597, a public employee or other person may smoke in any outdoor area of a public building unless otherwise prohibited by state law or local ordinance and a sign describing the prohibition is posted by the state, county, or city agency or other appropriate entity.

SEC. 2. The heading of Chapter 5.6 (commencing with Section 19994.30) of Part 2.6 of Division 5 of the Government Code is amended to read:

CHAPTER 5.6. TOBACCO CONTROL

SEC. 3. Section 19994.30 of the Government Code is amended to read:

19994.30. As used in this chapter:

(a) "Building" means a building owned and occupied, or leased and occupied, by the state.

(b) "State" or "state agency" means a state agency, as defined pursuant to Section 11000, the Legislature, the Supreme Court and the courts of appeal, and each California Community College campus and each campus of the California State University and the University of California.

(c) "State employee" means an employee of a state agency.

SEC. 4. Section 19994.31 of the Government Code is repealed.

SEC. 5. Section 19994.32 of the Government Code is repealed.

SEC. 6. Section 19994.33 of the Government Code is amended to read:

19994.33. (a) The State Department of Health Services may develop guidelines for the content and effective presentation of tobacco smoking control programs designed to assist an individual in either a self-help or group environment. The guidelines may be distributed to state agencies. The State Department of Health Services may provide a copy of the guidelines to any individual or group, upon request, and may charge a fee that shall not exceed the actual cost of producing a copy.

(b) State agencies may offer tobacco smoking control programs to their employees. A state agency may use existing employee training funds to pay for the presentation of tobacco smoking control programs offered to state employees at a state-owned or state-leased building during normal work hours.

(c) Not later than January 31, 1994, and thereafter upon initial employment, each state agency shall inform its employees about the smoking prohibition contained in Section 7597, areas where smoking is permitted, and the availability of tobacco smoking control programs.

(d) Enrollment in a tobacco smoking control program by any state employee shall be voluntary.