

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

NOTICE OF PROPOSED REGULATORY ACTION

TITLE 13, CALIFORNIA CODE OF REGULATIONS, DIVISION 2, CHAPTER 6.5, ARTICLE 4,
AMEND SECTION 1222

SMOKING ON SCHOOL BUS (CHP-R-2019-06102)

The California Highway Patrol (CHP) proposes to adopt changes to Title 13 of the California Code of Regulations (CCR), Section 1222, to establish and clarify that smoking is not permitted on a school bus, school pupil activity bus (SPAB), or pupil activity bus (PAB), at any time, and reference the statute (Section 22950.5 of the Business and Professions Code) that defines smoking. A recommendation for these changes was submitted to the CHP by the School Pupil Transportation Advisory Committee (SPTAC).

AUTHORITY AND REFERENCE

Section 34501.5 of the California Vehicle Code authorizes the Commissioner of the CHP to appoint a committee, SPTAC, to act in an advisory capacity when developing and adopting regulations affecting the safe operation of school buses. The proposed regulations implement, interpret, and make specific Sections 118880 and 118920 of the Health and Safety Code and Section 22950.5 of the Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Currently, Title 13 CCR, Section 1222, states that when a pupil is aboard, smoking is prohibited on a school bus, SPAB, or PAB. The phrase “when a pupil is aboard” could be misconstrued to mean that smoking is permitted on these vehicles (possibly by a driver, mechanic, or bus attendant) when a pupil is not on board. Although most schools have policy in place that prohibits employees from smoking in front of students and in district vehicles at any time, the regulation does not clearly convey that smoking is prohibited in these vehicles at any time. Further, the definition of smoking has changed to include other methods of smoking and should be cited in this rulemaking action.

According to the California Department of Public Health (CDPH), smoking and secondhand smoke cause life threatening diseases. The CDPH estimates that nearly 40,000 Californians die each year from diseases caused by smoking and secondhand smoke exposure. Section 118880 of the Health and Safety Code (HSC) declares that tobacco smoke is a hazard to the health of the general public, and Section 118920 HSC affirms that the regulation of smoking in public places is necessary to protect the health, safety, welfare, comfort, and environment of nonsmokers.

Additionally, Section 118920 HSC states that the intent of the Legislature is to eliminate smoking on public transportation vehicles.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

The CHP concludes this proposed regulation action: (1) is unlikely to eliminate any jobs in the State of California; (2) is unlikely to create additional jobs in the State of California; (3) is unlikely to result in the elimination of existing businesses, nor create or expand businesses in the State of California; and (4) will continue to provide a nonmonetary benefit through the protection and safety of pupils transported on school buses, SPABs, and PABs by providing a smoke-free environment, including secondhand smoke, on these vehicles.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

The CHP conducted an evaluation and determined that this proposed regulation is not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the CHP has concluded that these are the only regulations that concern smoking on a school bus in California.

WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action to the CHP at the address below. Comments may also be submitted by electronic mail to CHP-ResearchAndPlanning@chp.ca.gov or via facsimile (FAX) to (916) 322-3175. The written comment period closes on May 18, 2020.

California Highway Patrol
Research and Planning Section
P.O. Box 942898
Sacramento, CA 94298-0001
Attention: Rulemaking – Smoking on School Bus

PUBLIC HEARING

No public hearing has been scheduled. If any person desires a public hearing, a written request must be received by the CHP, no later than 15 days prior to the close of the written comment period.

AVAILABILITY OF INFORMATION

The CHP has available for public review an Initial Statement of Reasons for the proposed regulatory action, the information upon which this action is based (the rulemaking file), and the proposed regulation text. Requests to review or receive copies of this information may be made by writing to the P.O. Box above or the street address

that follows, or by sending a FAX to (916) 322-3175, or by calling (916) 843-3340. All requests should include the following information: the title of the rulemaking package, requester's name, proper mailing address (including city, state, and zip code), and a daytime phone number in case the requester's information is incomplete or illegible.

The rulemaking file is available for inspection at the CHP, Research and Planning Section (RPS), 601 North 7th Street, Sacramento, CA 95811. Interested parties are advised to call for an appointment.

All documents regarding the proposed action are also available through the CHP's Internet Web site at: <https://www.chp.ca.gov/News-Alerts/Regulatory-Actions>.

Any substantial changes to the original proposal will be available for at least 15 days prior to the CHP adopting this regulation. Any person desiring to obtain a copy of the adopted text and a final statement of reasons may request them at CHP, RPS, 601 North 7th Street, Sacramento, CA 95811. Copies will also be posted on the CHP's Internet Web site.

CONTACT PERSON

Any inquiries concerning the written materials pertaining to the proposed regulation, or questions regarding the substance of the proposed regulation, should be directed to Associate Governmental Program Analyst Jantze Bowie or Sergeant Scott Taylor, CHP, Research and Planning Section, at (916) 843-3340.

ADOPTION OF PROPOSED REGULATIONS

After consideration of public comments, the CHP may adopt the proposal substantially as set forth without further notice. If the proposal is modified prior to adoption and the change is not solely grammatical or non-substantive in nature, the full text of the resulting regulation, with the changes clearly indicated, will be made available to the public for at least 15 days prior to the date of adoption.

DISCLOSURES REGARDING THE PROPOSED ACTION

The CHP has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None.

Other nondiscretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Cost impacts on a representative private person or business: The CHP is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Statewide adverse economic impact directly affecting businesses and individual: The CHP initially determines the proposed regulation will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Significant effect on housing costs: None.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The CHP concludes this proposed regulation action: (1) is unlikely to eliminate any jobs in the State of California; (2) is unlikely to create additional jobs in the State of California; (3) is unlikely to result in the elimination of existing businesses, nor create or expand businesses in the State of California; and (4) will continue to provide a nonmonetary benefit through the protection and safety of pupils transported on school buses, SPABs, and PABs by providing a smoke-free environment, including secondhand smoke, on these vehicles.

SMALL BUSINESS DETERMINATION

Small businesses currently abide by smoke-free air laws. Amending current regulation and adding statutory reference regarding the definition of smoking would not adversely affect small businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Section 11345.5(a)(13) of the Government Code, the CHP must determine that no reasonable alternative it considered or has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. Therefore, the CHP invites interested parties to present statements or arguments with respect to alternatives to the proposed regulation during the written comment period.

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
J. T. EPPERSON, Chief
Enforcement and Planning Division