AN ACT TO ADD SECTION 1367.667 TO THE HEALTH AND SAFETY CODE, AND TO ADD SECTION 10123.25 TO THE INSURANCE CODE, RELATING TO HEALTH CARE COVERAGE.

LEGISLATIVE COUNSEL'S DIGEST

AB 1738, as introduced, Huffman. Health care coverage: tobacco cessation.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law requires health care service plan contracts and health insurance policies to provide coverage, and not impose cost-sharing requirements, for certain preventive services, including evidence-based items or services with a rating of "A" or "B" in the current recommendations of the United States Preventive Services Task Force, as specified.

This bill would require health care service plan contracts and health insurance policies issued, amended, renewed, or delivered on or after January 1, 2013, to provide coverage for 2 courses of treatment in a 12-month period for tobacco cessation preventive services rated "A" or "B" by the United States Preventive Services Task Force, and would prohibit plans and insurers from charging a copayment, coinsurance, or deductible for those services. The bill would also prohibit a plan or insurer from requiring enrollees or insureds to enter counseling in order
to receive tobacco cessation medications or from imposing prior authorization or stepped-care requirements on tobacco cessation treatments.

Because a willful violation of the bill’s provisions relative to health care service plans would be a crime, the bill would impose a state-mandated local program.

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 no reimbursement is required by this act for a specified reason.


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

SECTION 1. The Legislature hereby finds and declares the following:

(a) It is the intent of the Legislature that this act diminish the statewide economic and personal cost of tobacco addiction by making tobacco cessation treatments available to all smokers.

(b) Cigarette smoking and other uses of tobacco remain the leading cause of preventable death in California, as well as the cause of many other serious health problems, including heart disease, emphysema, and other chronic illnesses.

(c) The treatment of tobacco-related diseases continues to impose a significant burden on California’s health care system, including local and state-funded health care systems. Tobacco use costs Californians billions of dollars a year in medical expenses and lost productivity.

(d) Providing tobacco cessation counseling and medication is one of the most clinically effective and cost-effective health services available, second only to inoculations.

(e) Reducing the smoking rate in California by one percentage point will result in approximately $91 million saved over five years from fewer smoking-caused heart attacks and strokes.

(f) The United States Public Health Service Clinical Practice Guideline entitled Treating Tobacco Use and Dependence has identified the medications and counseling that are scientifically proven to be effective in helping smokers quit.
SEC. 2. Section 1367.667 is added to the Health and Safety Code, to read:

1367.667. (a) (1) A health care service plan contract issued, amended, renewed, or delivered on or after January 1, 2013, shall cover a minimum of two courses of treatment in a 12-month period for all tobacco cessation preventive services rated “A” or “B” by the United States Preventive Services Task Force, which shall include counseling and over-the-counter medication and prescription pharmacotherapy approved by the federal Food and Drug Administration.

(2) No copayment, coinsurance, or deductible shall be applied to the benefits covered under this section.

(3) As used in this section, “course of treatment” shall be defined to consist of the following:

(A) As applied to counseling, at least four sessions of counseling, which may be telephone, group, or individual counseling with each session lasting at least 10 minutes.

(B) As applied to a prescription or over-the-counter medication, the duration of treatment approved by the federal Food and Drug Administration for that medication.

(4) Enrollees shall not be required to enter counseling in order to receive tobacco cessation medications.

(5) A health care service plan shall not impose prior authorization or stepped-care requirements on tobacco cessation treatments.

(b) This section shall not apply to Medicare supplement plan contracts or to specialized health care service plan contracts.

SEC. 3. Section 10123.25 is added to the Insurance Code, to read:

10123.25. (a) (1) A health insurance policy issued, amended, renewed, or delivered on or after January 1, 2013, shall cover a minimum of two courses of treatment in a 12-month period for all tobacco cessation preventive services rated “A” or “B” by the United States Preventive Services Task Force, which shall include counseling and over-the-counter medication and prescription pharmacotherapy approved by the federal Food and Drug Administration.

(2) No copayment, coinsurance, or deductible shall be applied to the benefits covered under this section.
(3) As used in this section, “course of treatment” shall be defined to consist of the following:

(A) As applied to counseling, at least four sessions of counseling, which may be telephone, group, or individual counseling with each session lasting at least 10 minutes.

(B) As applied to a prescription or over-the-counter medication, the duration of treatment approved by the federal Food and Drug Administration for that medication.

(4) Insureds shall not be required to enter counseling in order to receive tobacco cessation medications.

(5) A health insurer shall not impose prior authorization or stepped-care requirements on tobacco cessation treatments.

(b) This section shall not apply to Medicare supplement policies or to specialized health insurance policies.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because 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.