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California bill would ban smoking in multi-unit housing

jsanders@sacbee.com

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Millions of Californians would not be able to smoke tobacco inside their own homes under new legislation that would raise the bar nationwide for fighting secondhand smoke.

No state ever has ventured into personal bedrooms and living rooms with its smoking restrictions, but California is going even further than that by targeting owner-occupied residences as well as rental units.

Specifically, the measure would prohibit lighting up a cigarette, cigar or pipe in condominiums, duplexes and apartment units.

The push would extend a lengthy list of places where smoking already is barred, including restaurants, workplaces, playgrounds, public buildings and cars containing young kids.

"Californians should be able to breathe clean air in their own homes," said Assemblyman Marc Levine, a San Rafael Democrat who introduced the legislation, Assembly Bill 746.

Standalone homes would not be affected because Levine is taking aim at health hazards of secondhand smoke in residences that share walls, ceilings, floors or ventilation systems.

One-third of California's residents live in multiunit housing, and secondhand smoke endangers everyone it touches, Levine said. "Whenever a neighbor lights up, everyone in the building smokes with them."

Landlords already have authority to prohibit smoking in their rental units, through a law implemented last year, but Levine's bill would impose a mandatory ban statewide.

The California Apartment Association has taken no position, but its officials question who would enforce AB 746, how, and what impact the bill would have on habitual smokers or people with disabilities.

"I'm not justifying the practice, but somebody in a wheelchair who smokes in the late evening, for example, is going to have to go in the dark to a place off-site," spokeswoman Debra Carlton said.

Residents of a Sacramento public housing project, south of Broadway, have mixed feelings.

"You're paying the rent, so you should be able to smoke a cigarette when you want to - have a coffee break, enjoy yourself," said Palmer Beverly, a 27-year-old student.

"Are they going to knock on my door and say, 'Are you smoking in here?' " he asked. "That would be awkward. That would be weird. I wouldn't even open the door."

But Debra Woldridge, 54, applauded the proposed smoking ban. Adults have the right to endanger their health if they want to, but "children shouldn't have to suffer our consequences."

Woldridge predicted that such a ban would be largely ignored. "People don't abide by the rules they already have," she said.

California has about 3.6 million smokers, whose habit can affect others by increasing risk of lung cancer, heart disease, stroke, chronic lung problems and other diseases, according to the California Department of Public Health.

Nationwide, cigarette smoking and exposure to secondhand smoke causes one of every five deaths, statistics by the Centers for Disease Control and Prevention show.

Levine's goal is to eliminate secondhand smoke that can be harmful when drifting through windows, walls, crawl spaces, ventilation systems, light fixtures, plumbing, ductwork, baseboards and wiring gaps.

Violations would be an infraction, punishable by a fine of up to \$100. Various cities and counties have passed similar measures.

AB 746 does not identify who would respond to complaints or write tickets.

"We hope this is self-enforcing, but it's a code enforcement issue where it's an infraction or a fine, (so) it's really for local jurisdictions to figure out," Levine said.

Brian Augusta, of the Western Center on Law and Poverty, said that targeting multifamily units disproportionately affects low-income people who can't afford standalone homes.

"If smoking is an addiction, and it clearly is, are we telling people that they have to quit smoking - without support - or leave their homes?" he said.

But Kimberly Amazeen, of the American Lung Association in California, which is sponsoring AB 746, said that failure to pass the bill would have disproportionate impacts, too, on others with nowhere to turn.

"The real discrimination is against low-income families who can't escape exposure to deadly secondhand smoke, and they can't find another place to live because of their income or health," she said.

Levine's bill would permit outdoor smoking near apartments or condos, but only in a clearly marked area that is at least 20 feet from any housing unit and 100 feet from a playground, school or pool.

Landlords, property managers, building owners or homeowners associations would select the outdoor smoking area. Condominium neighbors collaboratively would choose a site.

"Neighbors usually work together to figure those things out," Levine said.

The bill is specific to tobacco products and would not affect marijuana smoking.

Private property restrictions are nothing new: State law already bars homeowners from playing their radio loud enough to bother neighbors, for example, and logs can't be lit in fireplaces on certain days, Levine said.

"There are many instances where we seek to protect public health and safety," he said.

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