

SENATE THIRD READING
SB 541 (Menjivar)
As Amended September 1, 2023
Majority vote

SUMMARY

Requires all public high schools to make condoms available to students by the start of the 2024-25 school year, and requires schools to provide information to students on the availability of condoms, as well as other sexual health information. Prohibits public schools from preventing distribution of condoms or preventing a school-based health center from making condoms available and easily accessible to students at the school-based health center site. Prohibits retailers from restricting sales of nonprescription contraception on the basis of age.

Major Provisions

- 1) Requires, on or before the start of the 2024–25 school year, each public school to make condoms available to all pupils in grades nine to 12, inclusive, free of charge, and requires related information to be made available to students.
- 2) Requires each public school serving any of grades seven to 12, inclusive, to allow condoms to be made available during the course of, or in connection with, educational or public health programs and initiatives, as specified.
- 3) Requires public schools, serving any of grades seven to 12, to allow a school-based health center to make internal and external condoms available and easily accessible to pupils at the school-based health center site.
- 4) Prohibits a retail establishment from refusing to furnish nonprescription contraception to a person solely on the basis of age by means of any conduct, including, but not limited to, requiring the customer to present identification for purposes of demonstrating their age, unless the contraception is otherwise subject to restriction on the basis of age. Specifies that penalties do not apply for non-compliance.

COMMENTS

Access to condoms by adolescents. The external condom remains the most popular contraceptive method among adolescents. Data from the Centers for Disease Control and Prevention (CDC)'s 2017 Youth Risk Behavior Surveillance (YRBS) reported that while overall sexual activity decreased among high school students, barrier method use (referred to as condom use in the YRBS) also declined among sexually active adolescents. Among sexually active high school students, 54% reported condom use during their last sexual encounter, a decline from 62% in 2007. Among 12th-grade students, 57% reported ever being sexually active, but they had the lowest use of condoms among all grades. (Grubb, 2020)

Condoms are available over the counter in all states but may be difficult for teens to access as many stores stock condoms in inaccessible locations that require a store attendant to assist the customer. The costs of condoms may also be a limiting factor for many young people. This bill would address the availability and affordability of condom use for teens by making these items accessible at no cost in schools. The bill also prohibits retail establishments from refusing to furnish nonprescription contraception solely on the basis of age.

In 2017, the Society for Adolescent Health and Medicine published a position statement, "Condom Availability in Schools: A Practical Approach to the Prevention of Sexually Transmitted Infection/HIV and Unintended Pregnancy," recommending increased barrier method availability at schools. Studies have found that school condom programs do not increase sexual activity, the number of sexual partners, or risk behaviors. (Grubb, 2020)

According to the Author

"By requiring free condoms in all California high schools, we are empowering the youth who decide to become sexually active to protect themselves and their partners from sexually transmitted infections (STIs), while also removing barriers that potentially shame them and lead to unsafe sex. Further, requiring the Family PACT program to cover human papillomavirus (HPV) vaccinations for ages 12-18 will decrease instances of patients delaying vaccination or becoming discouraged after being turned away. These programs can instill safe sexual habits among youth, protecting themselves now and into adulthood."

Arguments in Support

The California School-Based Health Alliance writes, "More than 325,000 Californians were infected with syphilis, chlamydia, or gonorrhea in 2019. Young people, and in particular youth of color, are disproportionately impacted. Statewide data indicate over half of all STIs in the state are experienced among California youth ages 15 – 24 years old. Young people in this age group make up more than five out of every 10 chlamydia cases in California, and more than 87% are youth of color."

Condoms are an effective tool to reduce STI transmission, but condom use among sexually active teens has declined over the last decade. The CDC's Youth Risk Behavior Surveillance System shows that in 2019, an average of 20% of California high school students were sexually active and 47% of those students did not use condoms during their last sexual intercourse. Teens have long reported facing multiple barriers to accessing condoms that deter them from seeking and securing the resources they need to protect themselves against STIs and unintended pregnancy. When barriers remain, youth with low-incomes are often left without the option to regularly utilize condoms to help protect their health and prevent an unintended pregnancy from occurring.

Some California high schools distribute free condoms to students, including schools in the Los Angeles and San Francisco Unified School Districts, in an effort to curb STI rates and reduce unintended pregnancy. However, not all schools do so, leaving youth in other regions – including regions with some of the highest rates of STIs and pregnancies among youth – without equitable access to condoms and preventive health resources. California youth need and deserve equitable access to condoms to protect their health and safety. The scope of the STI epidemic requires bold action. To reduce public health disparities, we must ensure that California youth have equitable access to condoms and the HPV vaccine."

Arguments in Opposition

The California Family Council writes, " For the last decade or more this legislative body has been pushing condoms as the solution to sexually transmitted infections spreading among our youth. As the STI infection rate continued to rise, so did the insistence on easier access to condoms and information about safe sex at younger and younger ages. This was the whole argument surrounding the CA Healthy Youth Act passed in 2015, which mandates

comprehensive sex education in every school district. Now in 2023, we have an STI epidemic on our hands.

According to the California Department of Public Health, STIs are at epidemic levels. A 2020 report showed a 320% increase in syphilis over the past 10 years. Gonorrhea is up 190 percent. Despite these numbers, you still insist telling kids condoms will protect them. Why? Did you know condoms don't protect people from STIs such as herpes, genital warts, syphilis, and monkeypox, which can spread by skin-to-skin contact?

Don't you think it is time to tell young people the truth, that those with the most fulfilling and healthy sex lives are those who treat sex as a special and intimate act to be shared in an opposite-sex, monogamous marriage? STIs can only thrive in a hook-up culture where sex is meaningless and done for fun with multiple partners. Handing out free condoms perpetuates such a culture. Please consider different options."

FISCAL COMMENTS

According to the Assembly Appropriations Committee, ongoing Proposition 98 General Fund costs, of an unknown amount but potentially in the low millions of dollar annually, to schools to purchase condoms and inform students of the condoms' availability annually. Costs ultimately would depend on how many condoms schools make available.

VOTES

SENATE FLOOR: 31-8-1

YES: Allen, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Newman, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener

NO: Alvarado-Gil, Dahle, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto, Wilk

ABS, ABST OR NV: Grove

ASM EDUCATION: 5-1-1

YES: Muratsuchi, Juan Carrillo, Lee, McCarty, Quirk-Silva

NO: Megan Dahle

ABS, ABST OR NV: Hoover

ASM HEALTH: 12-3-0

YES: Wood, Waldron, Aguiar-Curry, Arambula, Boerner, Wendy Carrillo, Maienschein, McCarty, Rodriguez, Santiago, Villapudua, Weber

NO: Flora, Vince Fong, Joe Patterson

ASM APPROPRIATIONS: 11-4-1

YES: Holden, Bryan, Calderon, Wendy Carrillo, Mike Fong, Hart, Lowenthal, Papan, Pellerin, Weber, Wilson

NO: Megan Dahle, Dixon, Mathis, Sanchez

ABS, ABST OR NV: Soria

SENATE FLOOR: 40-0-0

YES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

SENATE FLOOR: 31-9-0

YES: Allen, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Newman, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener

NO: Alvarado-Gil, Dahle, Grove, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto, Wilk

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