

CONCURRENCE IN SENATE AMENDMENTS

AB 455 (Ortega)

As Amended July 17, 2025

Majority vote

SUMMARY

Requires disclosure of thirdhand smoke residue in real estate sales and updates to the Homeowners' Guide to Environmental Hazards.

Major Provisions

- 1) Finds and declares that "thirdhand smoke" is the toxic chemical residue left by tobacco smoke, and that it accumulates in carpets, walls, and furniture and becomes embedded in building materials, persisting for years after smoking stops.
- 2) Finds and declares that thirdhand smoke-polluted buildings expose occupants to more than 10 toxic chemicals listed in Proposition 65.
- 3) Requires the seller of a single-family residential property, who is otherwise required to make disclosures about the property, and who has actual knowledge of the existence of any residue from smoking or vaping tobacco or nicotine products, or any history of occupants smoking or vaping tobacco or nicotine products on the property, to disclose that knowledge to the buyer in writing.
- 4) Defines "thirdhand smoke" as the toxic chemical residue left behind by tobacco smoke.
- 5) Requires the Homeowners' Guide to Environmental Hazards to include information related to thirdhand smoke.
- 6) Requires the Department of Toxic Substances Control (DTSC) to update the Homeowners' Guide to Environmental Hazards to include a new section on thirdhand smoke, as provided.
- 7) Provides for the DTSC to offset the costs associated with updating the guide by delegating the responsibility for the update to the Center for Tobacco and the Environment at San Diego State University.
- 8) Requires the DTSC to review the update proposed by the Center for Tobacco and the Environment at San Diego State University to ensure the update adequately educates and informs consumers on thirdhand smoke as an environmental hazard, mitigation options, and sources for additional information.
- 9) *Defines "smoking or nicotine products" as including the use of an electronic cigarette or vape device for inhaling an aerosol.*

Senate Amendments

Add a definition to clarify that the bill's prohibitions apply to smoking and vaping.

COMMENTS

Disclosures play an important role in the sale of single-family homes, serving a mechanism of transparency and risk mitigation between sellers and buyers. Disclosures required under existing law range from disclosures to potential buyers regarding the natural hazards impacting the property, such as a property's presence in fault zones, flood zones, and fire severity areas to disclosures regarding the individual property itself, such as any known significant defects in the insulation, roof, foundation, plumbing and sewers, and electrical systems, among others.

This measure represents a novel step in California's longstanding policy of requiring robust disclosures in real estate transactions and draws upon research establishing that thirdhand smoke contains multiple Proposition 65-listed toxicants. The bill requires the Department of Toxic Substances Control (DTSC) to incorporate content on thirdhand smoke into the state's Homeowners' Guide in collaboration with the Center for Tobacco and the Environment at San Diego State University. Similar to other required disclosures in real estate transactions, it also places the responsibility on property sellers with actual knowledge of thirdhand smoke contamination to disclose that information to prospective buyers.

Thirdhand smoke. Thirdhand smoke is a pervasive and persistent form of tobacco pollution that poses significant health risks long after active smoking has ceased. Unlike secondhand smoke, which dissipates after a cigarette is extinguished, thirdhand smoke consists of toxic residues and chemical byproducts that cling to surfaces such as carpets, walls, ceilings, upholstery, and dust. According to data from the Thirdhand Smoke Resource Center, tobacco residues include carcinogenic and mutagenic compounds—particularly tobacco-specific nitrosamines—that can reemit into the air or react with ambient indoor pollutants to form additional toxicants. The Center further emphasizes that thirdhand smoke accumulates over time and persists in indoor environments for months or years, posing disproportionate risks to infants, children, pets and vulnerable populations who come into contact with contaminated surfaces, dust, and materials. (*What do we know about the health risks of thirdhand smoke?* <https://thirdhandsmoke.org/what-do-we-know-about-the-health-risks-of-thirdhand-smoke-2/> (as of Apr. 1, 2025).) These findings underscore that thirdhand smoke is not merely cosmetic or olfactory in nature, but rather constitutes a bona fide environmental health hazard with significant implications for real property and residential habitability.

Real estate disclosures & actual knowledge. Given California's exposure to a wide range of natural and environmental hazards, state law imposes comprehensive disclosure obligations on sellers of residential real property. Sellers are required to disclose whether the property is located in designated hazard zones, including fault zones, flood zones, and areas of high fire severity. Additional disclosures are mandated when a property is near industrial operations, former military ordnance sites, or abandoned oil and gas wells. The Transfer Disclosure Statement (TDS), required under Civil Code Section 1102.6, obligates sellers to disclose any known significant defects affecting the property's structural components and systems, including the roof, foundation, plumbing, electrical, and sewer systems. The TDS also includes a checklist of appliances and other fixtures, and requires sellers to answer detailed questions about any known environmental, legal, or physical conditions that may affect the property. Importantly, sellers are only required to disclose information within their actual knowledge; they are not obligated to conduct independent investigations or testing to uncover unknown hazards. Existing law further specifies if a consumer information booklet is delivered to a buyer, in connection with the sale of real property, a seller or broker is not required to provide additional information, the booklet is

deemed to provide adequate disclosure to the buyer regarding common environmental hazards that can affect real property. The Homeowners' Guide to Environmental Hazards fulfills this requirement.

The Residential Environmental Hazards Booklet was originally mandated by AB 983 (Bane) Chapter 969, Statutes of 1989, which required the Department of Real Estate (DRE) to prepare a consumer guide on environmental hazards affecting residential property, including asbestos, radon, lead-based paint, formaldehyde, fuel and chemical storage, and soil and water contamination. The legislation appropriated money from the Education and Research Account of the Real Estate Fund to support its preparation and authorized DRE to charge a fee to defray costs. The original edition was developed jointly by DRE and the Department of Health Services (now the Department of Health Care Services). The booklet was subsequently updated via AB 2753 (Sher) Chapter 264, Statutes 1994, which led to the 2005 edition prepared by the Department of Toxic Substances Control (DTSC) in collaboration with the California Air Resources Board and the Department of Health Services, and expanded to include lead-based paint hazards. SB 183 (Lowenthal), Chapter 19, Statutes of 2010 required the addition of content on carbon monoxide exposure. AB 225 (Grayson), Chapter 420, Statutes of 2023 required—as existing resources permit, or as private resources are made available—for the booklet to be updated to include new sections on wildfires, climate change, and sea level rise. It also directs the Department of Public Health to consult with departments within the Natural Resources Agency to help determine the updated contents.

This bill makes findings and declarations regarding the risks posed by thirdhand smoke, and adds thirdhand smoke to the list of environmental hazards about which homeowners must be educated via the Homeowners' Guide to Environmental Hazards. It also requires that sellers disclose actual knowledge of such contamination in single-family residential real property transactions.

According to the Author

Thirdhand smoke refers to the toxic residue left behind by tobacco products. When smoking or vaping takes place inside, particles and gasses expelled into the air absorb into the floors, walls, furniture, and other household surfaces. Thirdhand smoke contains more than 26 chemicals included on the Prop 65 List because they are known to cause cancer and/or reproductive or developmental harm; exposure to thirdhand smoke has been shown to cause a wide range of negative health impacts, including DNA damage, asthma exacerbation, an increased risk of cancer, and a weakened immune system. Currently, Californians looking to buy a home have no way of knowing whether this quiet killer is present in their future home, and research has shown that more than 96% of Californians want to know if the home they are about to buy or rent contains thirdhand smoke. AB 455 will help potential homeowners be more aware of the dangers of thirdhand smoke and aerosols and be fully informed before buying property that may be contaminated with this hazard. AB 455 accomplishes this goal in two ways:

- 1) AB 455 requires that if the seller of a single-family residential property knows that there is residue from smoking or vaping on the property and/or knows that there has been smoking or vaping on the property, the seller must disclose that knowledge in writing to the buyer of the property.
- 2) AB 455 Requires the Dept. of Toxic Substances Control to update the Homeowners' Guide to Environmental Hazards to include thirdhand smoke as a hazard.

Arguments in Support

Clean Earth 4 Kids, explains the risk of thirdhand smoke:

Thirdhand smoke is the toxic residue that remains on surfaces after smoking or using a vape. This residue sticks to furniture, windows, walls, and floors, as well as skin, hair, and clothing. This allows for toxic residues to be transferred to non-smoking environments. Only four weeks of exposure to thirdhand smoke can be equivalent to the smoke levels in homes of smokers, making it just as harmful as firsthand and secondhand smoke. Thirdhand smoke has the same damaging effects as smoking such as a higher risk of developing lung cancer and asthma. It can also harm the liver, brain, immune system and reproductive system.

Thirdhand smoke can be just as deadly as smoking cigarettes. Children are especially susceptible to the health effects of thirdhand smoke from crawling, putting non-edible objects in their mouths, and spending more time indoors. Everyone is at risk from the toxicity of secondhand and thirdhand smoke, not just smokers.

Arguments in Opposition

None on file.

FISCAL COMMENTS

According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

VOTES:**ASM JUDICIARY: 12-0-0**

YES: Kalra, Dixon, Wicks, Bryan, Connolly, Harabedian, Pacheco, Papan, Sanchez, Stefani, Zbur, Tangipa

ASM ENVIRONMENTAL SAFETY AND TOXIC MATERIALS: 7-0-0

YES: Connolly, Ellis, Bauer-Kahan, Castillo, Lee, McKinnor, Papan

ASM APPROPRIATIONS: 15-0-0

YES: Wicks, Sanchez, Arambula, Calderon, Caloza, Dixon, Elhawary, Fong, Mark González, Hart, Pacheco, Pellerin, Solache, Ta, Tangipa

ASSEMBLY FLOOR: 71-0-8

YES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Calderon, Caloza, Carrillo, Castillo, Connolly, Davies, DeMaio, Dixon, Elhawary, Flora, Fong, Gabriel, Gallagher, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Schiavo, Solache, Soria, Stefani, Ta, Tangipa, Valencia, Wallis, Ward, Wilson, Zbur, Rivas

ABS, ABST OR NV: Bryan, Chen, Ellis, Nguyen, Sanchez, Schultz, Sharp-Collins, Wicks

SENATE FLOOR: 40-0-0

YES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, Limón, McGuire, McNerney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Reyes, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener

UPDATED

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