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JOHN P. KEARNS
CHIEF OF POLICE

March 20, 1986

Law and Legislation Committee
Sacramento, California 95814

Honorable Members in Session:

SUBJECT: PROPOSED LEGISLATION (AB 4085)

SUMMARY:

Existing law provides that pupils may be suspended from school or recommended for expulsion for the possession or use of tobacco products except as permitted on the campus of a high school by rules and regulations adopted by the governing board of the school districts.

This bill would repeal the authority of the governing board of any school district maintaining a high school to adopt rules and regulations permitting the smoking and possession of tobacco on the campus of a high school or while under the authority of school personnel by pupils of the high school.

BACKGROUND:

Existing California law prohibits adults from providing (selling or giving) any tobacco product to minors (under 18). However, a hypocritical situation exists because school boards can permit students to smoke on campus. When school boards allow student smoking they are simply encouraging violation of the law.

School sponsored smoking undermines the effectiveness of health education programs that schools provide. The mixed message says to students, "If tobacco really weren't good for me, they wouldn't let me smoke at school."

Research has substantiated the "gateway drug" concept of tobacco products...that is...that young people who use tobacco products have a greater tendency to use other drugs of the youth drug culture...marijuana, alcohol, cocaine, amphetamines, inhalents, barbiturates, etc.

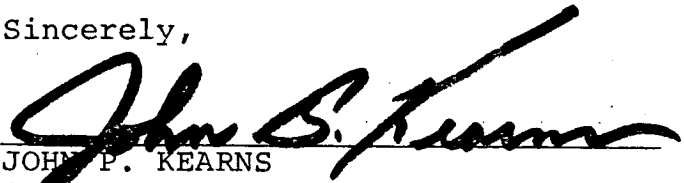
March 20, 1986

A recent study by the California Department of Health Services indicates an 18% increase in smoking in the 18-19 year old age group. This is especially alarming as there is a decline in all other age groups. This increase has been since 1977, the same year legislation was passed permitting student smoking in the public schools.

RECOMMENDATION:

I strongly urge the Law and Legislation Committee to adopt a position for AB 4085 and tender a letter of support to each of our legislators and to the appropriate committees.

Sincerely,



JOHN P. KEARNS
CHIEF OF POLICE

JPK:lf

Ref: 3-45

AMENDED IN ASSEMBLY APRIL 21, 1986

CALIFORNIA LEGISLATURE—1985-86 REGULAR SESSION

ASSEMBLY BILL

No. 4085

Introduced by Assembly Member Filante
(Coauthors: Assembly Members Duffy, Felando, Frazee, Katz, La Follette, Lancaster, Leonard, Seastrand, Sebastiani, and Wyman)
(Coauthors: Senators Dills, Doolittle, Royce, Stiern, Torres, and Watson)

February 21, 1986

An act to amend Section 48900 of, and to repeal Section 48901 of, the Education Code, relating to schools.

LEGISLATIVE COUNSEL'S DIGEST

AB 4085, as amended, Filante. Schools: use of tobacco products.

Existing law provides that *no pupils pupil* may be suspended from school or recommended for expulsion ~~for~~ *unless the superintendent or principal determines that the pupil has engaged in certain specified conduct, including the possession or use of tobacco products except as permitted on the campus of a high school by rules and regulations adopted by the governing board of the school district.*

This bill would repeal the authority of the governing board of any school district maintaining a high school to adopt rules and regulations permitting the smoking and possession of tobacco on the campus of a high school or while under the authority of school personnel by pupils of the high school.

This bill would also expand the grounds for suspension or expulsion to include the possession or use of any product containing tobacco or nicotine, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

1 SECTION 1. Section 48900 of the Education Code is
2 amended to read:

3 48900. A pupil *in kindergarten or any of the grades 1*
4 *to 12, inclusive*, shall not be suspended from school or
5 recommended for expulsion unless the superintendent or
6 the principal of the school in which the pupil is enrolled
7 determines that the pupil has:

8 (a) Caused, attempted to cause, or threatened to cause
9 physical injury to another person.

10 (b) Possessed, sold, or otherwise furnished any
11 firearm, knife, explosive, or other dangerous object
12 unless, in the case of possession of any such object, the
13 pupil had obtained written permission to possess the item
14 from a certificated school employee, which is concurred
15 in by the principal or the designee of the principal.

16 (c) Unlawfully possessed, used, sold, or otherwise
17 furnished, or been under the influence of, any controlled
18 substance, as defined in Section 11007 of the Health and
19 Safety Code, an alcoholic beverage, or an intoxicant of
20 any kind.

21 (d) Unlawfully offered, arranged, or negotiated to sell
22 any controlled substance, as defined in Section 11007 of
23 the Health and Safety Code, an alcoholic beverage, or an
24 intoxicant of any kind, and then either sold, delivered, or
25 otherwise furnished to any person another liquid,
26 substance, or material and represented the liquid,
27 substance, or material as a controlled substance, alcoholic
28 beverage, or intoxicant.

29 (e) Committed robbery or extortion.

30 (f) Caused or attempted to cause damage to school
31 property or private property.

32 (g) Stolen or attempted to steal school property or
33 private property.

34 (h) Possessed or used tobacco, *or any products*
35 *containing tobacco or nicotine products, including, but*
36 *not limited to, cigarettes, cigars, miniature cigars, clove*
37 *cigarettes, smokeless tobacco, snuff, chew packets, and*
38 *betel. However, this section does not prohibit use or*

1 possession by a pupil of his or her own prescription
2 products.

3 (i) Committed an obscene act or engaged in habitual
4 profanity or vulgarity.

5 (j) Had unlawful possession of, or unlawfully offered,
6 arranged, or negotiated to sell any drug paraphernalia, as
7 defined in Section 11364 of the Health and Safety Code.

8 (k) Disrupted school activities or otherwise willfully
9 defied the valid authority of supervisors, teachers,
10 administrators, school officials, or other school personnel
11 engaged in the performance of their duties.

12 (l) Knowingly received stolen school property or
13 private property.

14 No pupil shall be suspended or expelled for any of the
15 acts enumerated unless that act is related to school
16 activity or school attendance. A pupil may be suspended
17 or expelled for acts which are enumerated in this section
18 and related to school activity or attendance which occur
19 at any time, including, but not limited to, any of the
20 following:

21 (1) While on school grounds.

22 (2) While going to or coming from school.

23 (3) During the lunch period whether on or off the
24 campus.

25 (4) During, or while going to or coming from, a school
26 sponsored activity.

27 It is the intent of the Legislature that alternatives to
28 suspensions or expulsion be imposed against any pupil
29 who is truant, tardy, or otherwise absent from school
30 activities.

31 SEC. 2. Section 48901 of the Education Code is
32 repealed.

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