

AMENDED IN SENATE JUNE 3, 2002  
AMENDED IN SENATE MAY 22, 2002  
AMENDED IN ASSEMBLY JANUARY 14, 2002  
AMENDED IN ASSEMBLY APRIL 30, 2001  
AMENDED IN ASSEMBLY APRIL 4, 2001  
CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 875**

**Introduced by Assembly Member Horton**

February 22, 2001

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An act to amend Section 144 of, to add Chapter 3.7 (commencing with Section 5700) to Division 3 of the Business and Professions Code, and to repeal Title 3.95 (commencing with Section 1812.600) of Part 4 of Division 3 of the Civil Code, relating to auctioneers, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 875, as amended, Horton. Auctioneers and auction companies.

Existing law regulating auctioneers and auction companies was repealed in 1993.

This bill would enact the Auctioneer and Auction Licensing Act regulating auctioneers and auction companies. The bill would authorize the charging of licensing and renewal fees by the California Auctioneer Commission. These funds would be deposited into the Auctioneer Commission Fund which would be continuously appropriated for the

licensing and regulation of auctioneers and auction companies. By appropriating these funds, the bill would make an appropriation.

This bill provides that a violation of the act by a licensee would be a misdemeanor. Because this bill would create new crimes, it would impose a state-mandated local program.

*Existing law provides that perjury is a crime.*

*This bill would require that any complaint alleging a violation of the act be in writing and signed by the complaining party under penalty of perjury. The bill would additionally provide that an auctioneer is entitled to a copy of the complaint and supporting documentation. Because this bill would require all complaints to be signed under penalty of perjury, the violation of which is a crime, the bill would impose a state-mandated local program.*

This bill would authorize a loan of \$100,000 from the General Fund to the Auctioneer Commission Fund and would require the commission to repay the loan not later than June 30, 2004.

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.

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

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

- 1 SECTION 1. Section 144 of the Business and Professions
- 2 Code is amended to read:
- 3 144. (a) Notwithstanding any other provision of law, an
- 4 agency designated in subdivision (b) shall require an applicant to
- 5 furnish to the agency a full set of fingerprints for purposes of
- 6 conducting criminal history record checks. Any agency
- 7 designated in subdivision (b) may obtain and receive, at its
- 8 discretion, criminal history information from the Department of
- 9 Justice and the United States Federal Bureau of Investigation.
- 10 (b) Subdivision (a) applies to the following boards or
- 11 committees:
- 12 (1) California Board of Accountancy.
- 13 (2) State Athletic Commission.



- 1 (3) Board of Behavioral Sciences.
- 2 (4) Court Reporters Board of California.
- 3 (5) State Board of Guide Dogs for the Blind.
- 4 (6) California State Board of Pharmacy.
- 5 (7) Board of Registered Nursing.
- 6 (8) Veterinary Medical Board.
- 7 (9) Registered Veterinary Technician Committee.
- 8 (10) Board of Vocational Nursing and Psychiatric Technicians.
- 9 (11) Respiratory Care Board of California.
- 10 (12) Hearing Aid Dispensers Advisory Commission.
- 11 (13) Physical Therapy Board of California.
- 12 (14) Physician Assistant Committee of the Medical Board of
- 13 California.
- 14 (15) Speech-Language Pathology and Audiology Board.
- 15 (16) Medical Board of California.
- 16 (17) State Board of Optometry.
- 17 (18) Acupuncture Board.
- 18 (19) Cemetery and Funeral Programs.
- 19 (20) Bureau of Security and Investigative Services.
- 20 (21) Division of Investigation.
- 21 (22) Board of Psychology.
- 22 (23) The California Board of Occupational Therapy.
- 23 (24) The California Auctioneer Commission.

24 SEC. 2. Chapter 3.7 (commencing with Section 5700) is  
25 added to Division 3 of the Business and Professions Code, to read:

26  
27 CHAPTER 3.7. AUCTIONEERS AND AUCTIONS

28  
29 Article 1. General Provisions

30  
31 5700. This chapter shall be known and cited as the Auctioneer  
32 and Auction Licensing Act.

33 5701. As used in this chapter:

34 (a) "Advertisement" means any of the following:

35 (1) Any written or printed communication for the purpose of  
36 soliciting, describing, or offering to practice auctioneering or  
37 auction company services, including any brochure, pamphlet,  
38 newspaper, periodical, or publication.

1 (2) A telephone or other directory listing caused or permitted  
2 by a licensee to be published that indicates the licensee’s offer to  
3 practice auctioneering or auction company services.

4 (3) A radio, television, or similar airwave transmission that  
5 solicits or offers the practice of auctioneering or auction company  
6 services.

7 (b) “Auction” means a sale transaction conducted by means of  
8 oral or written exchanges between an auctioneer and the members  
9 of his or her audience, which exchanges consist of a series of  
10 invitations for offers for the purchase of goods made by the  
11 auctioneer and offers to purchase made by members of the  
12 audience and culminate in the acceptance by the auctioneer of the  
13 highest or most favorable offer made by a member of the  
14 participating audience.

15 (c) “Auction company” means any person who arranges,  
16 manages, sponsors, advertises, accounts for the proceeds of, or  
17 carries out auction sales at locations, including, but not limited to,  
18 a fixed location, an auction barn, gallery, place of business, sale  
19 barn, sale yard, sale pavilion, and the contiguous surroundings of  
20 each.

21 (d) (1) “Auctioneer” means an individual who is engaged in,  
22 or who by advertising or otherwise holds himself or herself out as  
23 being available to engage in, the calling for, the recognition of, and  
24 the acceptance of, offers for the purchase of goods at an auction.

25 (2) Auctioneer does not include an owner or operator of any  
26 business registered as a corporation, or foreign corporation, within  
27 this state whose principal business activity consists of,  
28 maintaining and operating a Web site or collection of related Web  
29 sites that enable third parties to auction, or otherwise advertise,  
30 offer to sell or purchase, accept an offer to sell or purchase, sell,  
31 or purchase goods or services. This type of on-line Web site  
32 maintains a contractual relation with those who buy or sell within  
33 their marketplace and shall also have in place easily identifiable  
34 resources for the protection of those who use the site or sites for  
35 transactions. These resources may include a means for providing  
36 customer support, integrated payment options, escrow and  
37 valuation options, and fraud prevention procedures.

38 (e) “Board” means the Board of Governors of the California  
39 Auctioneer Commission.



1 (f) “Commission” means the California Auctioneer  
2 Commission.

3 (g) “Employee” means an individual who works for an  
4 employer, is listed on the employer’s payroll records, and is under  
5 the employer’s control.

6 (h) “Employer” means a person who employs an individual  
7 for wages or salary, lists the individual on the person’s payroll  
8 records, and withholds legally required deductions and  
9 contributions.

10 (i) “Executive officer” means the Executive Officer of the  
11 California Auctioneer Commission.

12 (j) “Goods” means any goods, wares, chattels, merchandise,  
13 or other personal property, including domestic animals and farm  
14 products.

15 (k) “Licensee” means any person licensed under this chapter  
16 as an auctioneer or auction company.

17 (l) “Person” means an individual, corporation, partnership,  
18 trust, including a business trust, firm association, organization, or  
19 any other form of business enterprise.

20 (m) “Pocket card” means a certified copy of an auctioneer’s  
21 license, issued by the commission, that shall include a photograph  
22 of the auctioneer, and that is the property of the commission.

23

## 24 Article 2. Administration

25

26 5710. There is hereby created a public corporation known as  
27 the California Auctioneer Commission.

28 5711. All persons licensed pursuant to this chapter shall be  
29 members of the commission.

30 5712. The commission has perpetual succession and a seal. It  
31 may sue and be sued. It may own property, make contracts, and do  
32 all other lawful acts necessary or expedient for the administration  
33 of its affairs.

34 The commission may accept gifts, bequests, and other  
35 charitable donations.

36 5713. The headquarters of the commission shall be in  
37 Sacramento.

38 5714. (a) The powers conferred on the commission shall be  
39 exercised by its board of governors. The board is charged with the  
40 administration of these powers.



1 (b) The board shall govern, control, and administer the affairs  
2 of the commission, and shall exercise all rights and powers vested  
3 in it by this chapter.

4 (c) The commission is vested with all duties, powers, purposes,  
5 responsibilities, and jurisdiction regarding auctions and  
6 auctioneering. No other agency, or political subdivision of the  
7 state, shall impose on a licensee or seller at auction any registration  
8 or license requirement or any license or employment fee or charge  
9 on account of auction activities. No provision of this subdivision  
10 or chapter prohibits any city or county, or city and county, from  
11 imposing a business license fee on a licensed auctioneer or auction  
12 company whose permanent place of business, as filed with the  
13 commission, is located in that city, county, or city and county.

14 5715. (a) The business of the commission shall be  
15 administered by the board, which shall consist of nine members.  
16 Each member of the board shall be a citizen of the United States.  
17 Four members shall be licensed under this chapter. Five members  
18 of the board shall be ex officio members as follows:

19 (1) One member shall be the Chairperson of the Board of  
20 Equalization or his or her designee.

21 (2) One member shall be the Director of the Department of Real  
22 Estate or his or her designee.

23 (3) One member shall be the Director of the Department of  
24 Consumer Affairs or his or her designee.

25 (4) One member shall be the Director of the Department of  
26 Motor Vehicles or his or her designee.

27 (5) One member shall be the President of the California District  
28 Attorney's Association or his or her designee.

29 (b) Each member, except the ex officio members, shall have at  
30 least five years of experience in auctioneering and shall be  
31 recognized as having standing in his or her practice of the  
32 auctioneering business. Each member of the board shall be at least  
33 21 years of age and shall have been a resident of this state for at  
34 least five years immediately preceding his or her appointment.

35 (c) The first board shall consist of nine members, the five ex  
36 officio members plus four members representing the  
37 auctioneering industry, two of whom shall be appointed by the  
38 President pro Tempore of the Senate and two by the Speaker of the  
39 Assembly. Each member appointed to fill a new term or vacancy



1 shall be a licensed auctioneer or an ex officio member as was his  
2 or her predecessor.

3 (d) Each member of the board shall hold office until the  
4 appointment and qualification of his or her successor or until six  
5 months have elapsed since the expiration of the term for which he  
6 or she was appointed, whichever first occurs. No individual shall  
7 serve as a member of the board for more than two consecutive  
8 terms.

9 (e) The Governor may remove any member of the board for  
10 misconduct, incompetency, or neglect of duty.

11 5715.2. The board shall hold not less than four regular  
12 meetings each fiscal year for the purpose of transacting the  
13 business as may properly come before it. Once each year, the board  
14 shall elect officers.

15 5716. The members of the board shall elect from the board  
16 membership a president, vice president, and secretary. Officers  
17 shall serve for one year or until their successors are chosen and  
18 qualify. The president shall preside at all meetings of the  
19 commission and of the board, and in the event of his or her absence  
20 or inability to act, the vice president shall preside.

21 5717. Subject to the laws of this state, the board may  
22 formulate and declare rules and regulations necessary for the  
23 carrying out of this chapter. The rules and regulations shall be  
24 adopted in accordance with the Administrative Procedure Act,  
25 Chapter 3.5 (commencing with Section 11340) of Part 1 of  
26 Division 3 of Title 2 of the Government Code.

27 5717.1. Upon enactment of this chapter, there is created a  
28 special fund in the State Treasury, known as the Auctioneer  
29 Commission Fund. Notwithstanding Section 13340 of the  
30 Government Code, the fund shall be continuously appropriated for  
31 the purposes of this chapter. The board may make disbursements  
32 from the Auctioneer Commission Fund to pay all necessary  
33 expenses associated with the performance of the duties and powers  
34 of the board. Each member of the board shall receive one hundred  
35 dollars (\$100) per day and his or her necessary expenses for each  
36 day he or she performs duties of the board.

37 5717.2. The board shall appoint an executive officer for the  
38 commission. No member of the commission is eligible to serve as  
39 the executive officer.



1 5719. Notice of all board meetings shall be governed by rule  
2 of the board. A majority of the board constitutes a quorum.

3 All meetings shall be open and public, except that the board may  
4 hold closed sessions to do any of the following:

5 (a) Deliberate on the decision to be reached upon evidence in  
6 a disciplinary proceeding conducted in accordance with Chapter  
7 5 (commencing with Section 11500) of Part 1 of Division 3 of Title  
8 2 of the Government Code.

9 (b) Prepare, approve, grade, or administer examinations.

10 (c) Consider the appointment, employment, or dismissal of an  
11 employee or hear complaints or charges against the employee.

12 (d) Discuss matters that would constitute an unwarranted  
13 invasion of the privacy of an individual licensee or applicant if  
14 discussed in an open meeting.

15 ~~(e) Consider any gifts, donations, or bequests that the donor or  
16 proposed donor has requested in writing be kept confidential.~~

17 ~~(f)~~

18 (e) Confer with legal counsel regarding pending litigation  
19 when discussion in open session concerning those matters would  
20 adversely affect or be detrimental to the public interest. Litigation  
21 shall be considered pending when a complaint, claim, or petition  
22 for writ of mandate has been filed, or the threat of litigation is  
23 imminent in the opinion of the board.

24 5721. Any member of the board and the executive officer may  
25 administer oaths and take testimony and evidence concerning all  
26 matters within the board's jurisdiction.

27 5722. The executive officer shall keep a complete record of all  
28 applications for licensure and the action of the board thereon and,  
29 between July 1 and December 1 of each year, shall prepare a roster  
30 showing the names, addresses, and telephone numbers of all  
31 licensees. The telephone number may be omitted from the  
32 directory upon request of the licensee.

33 A copy of the roster shall be filed with the Secretary of State and  
34 with the clerk of each county in the state, and a copy of the roster  
35 shall be furnished to each licensee. Copies of the roster shall be  
36 available on application to the executive officer, at a price per copy  
37 that reimburses the commission for the cost of publication.

38 All records of the commission shall be public records except  
39 confidential letters of reference, examination material, and  
40 investigation files.



Article 3. Licensing

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5730. No individual may act as an auctioneer and no person may operate an auction company unless that individual or person holds an unexpired valid license issued pursuant to this chapter. However, the requirements of this chapter do not apply to any of the following:

(a) An auction of goods conducted by an individual who personally owns those goods and who did not acquire the goods for resale.

(b) An auction conducted by, on behalf of, or under the direction of, any public authority, political candidate or party, church, or charitable organization. However, if the individual conducting the sale receives compensation or, by advertising or otherwise, holds himself or herself out as being available to engage in the sale of goods at auction for compensation, that individual shall be required to hold a license pursuant to this chapter.

(c) A sale of real estate, provided that the auctioneer conducting a real estate auction is licensed as required by this chapter.

(d) An automobile auction regulated by the Department of Motor Vehicles. The exemption provided by this subdivision shall extend to employees of these auctions but not to independent contractors calling an auction.

(e) An auction of livestock in any place designated by the Secretary of the United States Department of Agriculture as a stockyard pursuant to Section 202 of Chapter 9 of Title 7 of the United States Code. However, an individual other than the auction yard owner or manager, acting as an auctioneer at a livestock auction shall hold a license as required by this chapter.

5731. Every individual, before acting as an auctioneer, shall obtain an auctioneer license. An individual seeking an initial license as an auctioneer shall meet all of the following requirements:

(a) Be at least 18 years of age.

(b) File with the commission a completed application on a form prescribed by the board.

(c) Pay the nonrefundable examination fee and the nonrefundable application fee specified in Section 5791.



1 (d) Provide proof that the applicant, or his or her employer,  
2 holds a valid seller's permit issued by the State Board of  
3 Equalization, if applicable.

4 (e) (1) Provide one set of fingerprints on a form approved by  
5 the Department of Justice and pay the fee specified in Section 5791  
6 for fingerprint processing.

7 (2) The commission shall send the fingerprints to the  
8 Department of Justice (DOJ) for a state and federal criminal  
9 offender record information (CORI) check. This CORI check shall  
10 include every conviction rendered against the applicant, every  
11 arrest for an offense for which the applicant is presently awaiting  
12 trial, and whether the applicant is incarcerated or has been released  
13 on bail or on his or her own recognizance pending trial. The DOJ  
14 shall send these results back to the commission.

15 (f) Provide two color photographs of passport quality of the  
16 size prescribed by the board.

17 (g) Pass an examination prepared by the board, provided  
18 however that the examination shall be waived for individuals who  
19 provide evidence satisfactory to the commission showing that they  
20 have been actively engaged as an auctioneer in California  
21 conducting auctions for at least two of the last three years.

22 (h) File a surety bond, if required, in the amount and form  
23 prescribed in Article 3.5 (commencing with Section 5760).

24 (i) Pay the license fee and pocket card fee specified in Section  
25 5791.

26 5732. The executive officer shall hold examinations as the  
27 board may prescribe. The examination for an auctioneer's license  
28 shall include questions on the applicant's ability to read and write,  
29 his or her ability to call bids, his or her knowledge of sale  
30 preparation, proper sale advertising and sale summary, his or her  
31 knowledge of mathematics and accounting principles, and his or  
32 her knowledge of the provisions of this chapter, the commission's  
33 regulations, and other laws relating to auctioneering and auction  
34 company services, including, but not limited to, the Commercial  
35 Code, the Penal Code, and other applicable state laws.

36 5733. An applicant who fails to pass the initial examination  
37 may, upon payment of the reexamination fee specified in Section  
38 5791, apply for reexamination on a form prescribed by the board.

39 5733.5. If an applicant fails to complete his or her application  
40 within one year after it has been filed, or fails to take the



1 examination within a one-year period after becoming eligible, the  
2 application shall be considered to be abandoned. An application  
3 submitted after the abandonment of a former application shall be  
4 treated as a new application and shall be required to meet all of the  
5 requirements for an initial license.

6 5734. The board may waive the requirement that a  
7 nonresident applicant pass an examination if all of the following  
8 requirements are met:

9 (a) The nonresident applicant is licensed or registered to act as  
10 an auctioneer by the state of his or her domicile.

11 (b) That state's requirements for licensing or registration are at  
12 least as stringent as those in effect in California, that state provides  
13 examination waivers to California licensed auctioneers, and the  
14 applicant meets all the other requirements set forth in Section  
15 5731.

16 (c) The nonresident applicant submits with his or her  
17 application a duly certified letter of certification issued by the  
18 licensing board of his or her state.

19 (d) The nonresident applicant includes with his or her  
20 application an irrevocable consent that actions may be commenced  
21 against him or her. The consent shall stipulate that service of  
22 process or pleadings on the board shall be taken and held in all  
23 courts as valid and binding as if service of process had been made  
24 upon the applicant personally within this state. If any process or  
25 pleading mentioned in this subdivision is served upon the board,  
26 it shall be by duplicate copies. One of the duplicate copies shall be  
27 filed in the Sacramento office of the commission and one shall be  
28 immediately forwarded by the executive officer by registered or  
29 certified mail to the applicant against whom the process or  
30 pleadings are directed.

31 5735. Upon compliance by the applicant with the  
32 requirements of Section 5731, except subdivision (g), the board  
33 may issue a temporary permit authorizing the applicant to practice  
34 auctioneering, pending the results of the first licensing  
35 examination administered after the date of application. The  
36 temporary permit of an applicant who fails, or who does not appear  
37 at, the examination for which he or she is scheduled shall be void  
38 upon receiving notice thereof.

39 5735.5. Upon written application, the board may reissue a  
40 temporary permit to any individual who, in the judgment of the



1 board, has been excusably delayed in completing his or her  
2 application. The board may not reissue a temporary permit more  
3 than twice to any one individual within a five-year period.

4 5736. A temporary permit has the same effect as a license and  
5 subjects the permittee to the same obligations as if he or she had  
6 obtained a license under this chapter. However, a temporary  
7 permitholder shall not be a member of the commission, nor shall  
8 he or she be listed in the roster.

9 5737. Upon the request of an applicant, an examination may  
10 be scheduled on a date other than the date of a regularly scheduled  
11 examination, provided that the applicant pays the fee for a special  
12 examination specified in Section 5791 in addition to the cost of all  
13 facilities and services necessary for the administration of the  
14 examination.

15 5738. Every person, before operating an auction company,  
16 shall obtain an auction company license. This provision does not  
17 apply to an individual who is a licensed auctioneer and operates an  
18 auction company as a sole proprietorship. A person seeking an  
19 initial license as an auction company shall meet all of the following  
20 requirements:

21 (a) File with the commission a completed application on a form  
22 prescribed by the board.

23 (b) Pay a nonrefundable application fee and a license fee in the  
24 amounts specified in Section 5791.

25 (c) File a surety bond, if required, in the amount and form  
26 prescribed in Article 3.5 (commencing with Section 5760).

27 (d) Provide proof that the applicant holds a valid seller's permit  
28 issued by the State Board of Equalization.

29 (e) (1) Provide one set of fingerprints for each owner, partner,  
30 or officer of the auction company, as applicable, on a form  
31 approved by the Department of Justice, and pay the fee specified  
32 in Section 5791 for the processing of each set of fingerprints  
33 except for any owner, officer, or partner who is a licensed  
34 auctioneer.

35 (2) The commission shall send the fingerprints to the  
36 Department of Justice (DOJ) for a state and federal criminal  
37 offender record information (CORI) check. This CORI check shall  
38 include every conviction rendered against the applicant, every  
39 arrest for an offense for which the applicant is presently awaiting  
40 trial, and whether the applicant is incarcerated or has been released



1 on bail or on his or her own recognizance pending trial. The DOJ  
2 shall send these results back to the commission.

3 5738.5. Each owner, partner, or officer of an auction company  
4 may apply for a pocket card by providing two color photographs  
5 of passport quality of the size prescribed by the board and paying  
6 the pocket card fee specified in Section 5791.

7 5739. The board shall issue an auction company license to  
8 each nonresident applicant who complies with the requirements of  
9 Section 5738 and includes with his or her application an  
10 irrevocable consent that actions may be commenced against him,  
11 her, or them. The consent shall stipulate that service of process or  
12 pleadings on the board shall be taken and held in all courts as valid  
13 and binding as if service of process had been made upon the  
14 applicant personally within this state. If any process or pleading  
15 mentioned in this subdivision is served upon the board, it shall be  
16 by duplicate copies. One of the duplicate copies shall be filed in  
17 the Sacramento office of the commission and one shall be  
18 immediately forwarded by the executive officer by registered or  
19 certified mail to the person against whom the process or pleadings  
20 are directed.

21 5740. The Department of Justice shall notify the board of all  
22 misdemeanor and felony convictions of each applicant.

23 5741. Upon the receipt of a completed application, the  
24 executive officer shall verify the truthfulness of the information  
25 contained in the application. The board shall issue a license, in a  
26 form as it may prescribe, to each person who meets all of the  
27 requirements for licensing and pays the appropriate fees, unless  
28 cause exists under Section 5777 to deny the license.

29 5742. Auctioneer and auction company licenses shall expire  
30 at 12 midnight on June 30 of every odd-numbered year, unless  
31 renewed before that date. Neither license nor renewal fees shall be  
32 prorated for those licenses issued at any time prior to the renewal  
33 date.

34 5743. An applicant for renewal of an auctioneer or auction  
35 company license shall meet all of the following requirements:

36 (a) File with the commission a completed application on a form  
37 prescribed by the board.

38 (b) Pay the license renewal fee specified in Section 5791.



1 (c) Satisfy the executive officer that a surety bond, if required,  
2 in the amount and form prescribed in Article 3.5 (commencing  
3 with Section 5760) is in full force and effect.

4 (d) Provide two color photographs of passport quality of the  
5 size prescribed by the board and pay the pocket card fee specified  
6 in Section 5791. Auction company owners, partners, and officers  
7 may, but are not required to, comply with the requirements of this  
8 subdivision.

9 (e) Provide proof satisfactory to the commission that the  
10 applicant has completed not less than six hours per year of  
11 continuing education approved by the commission.

12 5744. Once a license has expired, it may be reinstated not  
13 more than one year after the date of expiration upon payment of  
14 the renewal fee plus the sum of fifty dollars (\$50). If the license  
15 has been expired for a period of more than one year, the applicant  
16 shall file for and meet all of the requirements for an initial license,  
17 including passage of the examination, if applicable.

18 5745. Upon the receipt of notification from the executive  
19 officer of the expiration of any license under this chapter, the  
20 holder of the license shall cease to display the certificate of license  
21 and to wear the pocket card, and shall immediately return the  
22 certificate and pocket card to the executive officer.

23 5747. Any licensee who wishes to conduct an auction  
24 company under a name other than, or in addition to, that on record  
25 with the commission shall, within 30 days of the change or  
26 addition, pay the fee specified in Section 5791.

27  
28 Article 3.5. Bonding  
29

30 5760. Every individual who applies for an auctioneer’s  
31 license and who handles proceeds from buyers or sellers at  
32 auctions shall, as a condition to the granting and the retention  
33 thereof, file or have on file with the executive officer a bond in the  
34 amount of thirty thousand dollars (\$30,000) that meets the  
35 requirements contained in Section 5763.

36 5761. Every person who applies for an auction company  
37 license shall, as a condition to the granting and the retention  
38 thereof, file or have on file with the executive officer a bond in the  
39 amount of thirty thousand dollars (\$30,000) that meets the  
40 requirements contained in Section 5763.



1 5762. (a) In lieu of the bond required by this article, there  
2 may be deposited with the commission any of the following:

3 (1) Lawful money of the United States. The money shall be  
4 maintained by the executive officer in an interest-bearing trust  
5 account.

6 (2) Certificates of deposit payable to the executive officer, not  
7 exceeding the federally insured amount, issued by banks  
8 authorized to do business in this state and insured by the Federal  
9 Deposit Insurance Corporation or by savings and loan associations  
10 authorized to do business in this state and insured by the Federal  
11 Savings and Loan Insurance Corporation.

12 (3) Savings accounts assigned to the executive officer, not  
13 exceeding the federally insured amount, together with evidence of  
14 the deposit of the savings accounts with banks authorized to do  
15 business in this state and insured by the Federal Deposit Insurance  
16 Corporation.

17 (4) Investment certificates or share accounts assigned to the  
18 executive officer, not exceeding the federally insured amount,  
19 issued by savings and loan associations authorized to do business  
20 in this state and insured by the Federal Savings and Loan Insurance  
21 Corporation.

22 (5) Certificates for funds or share accounts assigned to the  
23 executive officer, not exceeding the guaranteed amount, issued by  
24 a credit union, as defined in Section 14002 of the Financial Code,  
25 whose share deposits are guaranteed by the National Credit Union  
26 Administration or guaranteed by any other agency approved by the  
27 Commissioner of Financial Institutions.

28 (b) The deposit shall be in an amount or have a face value equal  
29 to or in excess of thirty thousand dollars (\$30,000).

30 (c) The deposit shall be accompanied by an agreement  
31 executed by the depositor authorizing the executive officer to  
32 collect, sell, or otherwise apply the deposit to enforce the liability  
33 of the depositor on the deposit. The agreement shall include the  
34 address at which the depositor may be served with notices, papers,  
35 and other documents under this chapter.

36 (d) The board may prescribe terms and conditions to  
37 implement this section.

38 5762.1. All instruments and certificates representing any  
39 deposit made under Section 5762 shall be filed by the depositor  
40 with the executive officer.



1 5762.2. All obligations and remedies specified in this article  
2 relating to bonds apply to all deposits made pursuant to Section  
3 5762.

4 5763. (a) The state shall be the obligee under the bond.

5 (b) The bond shall comply with all of the following:

6 (1) Be executed by the person seeking the license as principal  
7 and by a corporate surety, licensed to do business in this state, as  
8 surety.

9 (2) Be in the form as the board prescribes.

10 (3) Be conditioned upon the faithful performance of all  
11 obligations of a licensee under this chapter and the regulations,  
12 including the obligation to account for and pay over moneys and  
13 proceeds to persons who are entitled to them.

14 (4) Be effective from the date of filing with the executive  
15 officer, not be affected by the expiration of the license, and  
16 continue in full force and effect until canceled, provided that the  
17 total and aggregate liability of the surety on a bond shall be limited  
18 to the amount specified in the bond and the continuous nature of  
19 the bond shall in no event be construed as allowing the liability of  
20 the surety under a bond to accumulate for each successive license  
21 period during which the bond is in force.

22 (c) (1) A licensee may not cancel a bond without the prior  
23 written approval of the board and its approval of a substitute bond  
24 so as to provide continuous bonding of the licensee's activities.

25 (2) The surety on a bond may cancel a bond filed under this  
26 chapter only after the expiration of 30 days from the date the surety  
27 mails a notice of intent to cancel, by registered or certified mail,  
28 return receipt requested, to the commission and to the principal on  
29 the bond.

30 (3) Not later than the date upon which a bond cancellation  
31 becomes effective, the licensee shall give written notice to the  
32 commission that a new bond has been obtained, and shall file the  
33 new bond with the executive officer, in order to provide  
34 continuous bond coverage of the licensee's activities. Failure to  
35 provide this notice and to file a new bond shall result in the  
36 automatic revocation of the license. A license revoked pursuant to  
37 this subdivision may be reinstated only by filing a bond as  
38 provided in this article and paying a reinstatement fee in the  
39 amount of one hundred dollars (\$100).



1 (d) The bond shall at all times reflect the name of the licensee  
2 as shown in the records of the commission. Failure to provide a  
3 new or amended bond within 30 days following a change in the  
4 name of the licensee shall result in the automatic revocation of the  
5 license. A license revoked pursuant to this subdivision may only  
6 be reinstated by filing a new or amended bond as provided in this  
7 article and paying a reinstatement fee in the amount of one hundred  
8 dollars (\$100).

9 (e) No action shall be brought upon any bond after the  
10 expiration of three years from the accrual of the cause of action.  
11 The executive officer shall keep each bond on file for a period of  
12 three years following termination of the bond.

13 (f) The existence of the bond and the bond recovery procedure  
14 shall in no way affect or alter any other right or remedy that any  
15 person or the board may have under applicable law.

16

17 Article 4. Conduct of Business and Prohibited Acts

18

19 5770. The board and executive officer shall have the power,  
20 duty, and authority to investigate all violations of this chapter and  
21 of the regulations of the board. It is the duty of the executive  
22 officer, under the direction of the board, to seek compliance of all  
23 persons with the provisions of this chapter.

24 5771. Where the board is presented with allegations of  
25 violations of this chapter or of other laws affecting the business of  
26 auctioneering, the board shall meet to consider these allegations  
27 and, when possible, work to informally resolve them in a manner  
28 satisfactory to all parties. *Any allegation of a violation shall be*  
29 *presented to the board in writing and shall be signed by the*  
30 *complaining party under penalty of perjury. A licensee accused of*  
31 *violating this chapter or any other provision of law affecting the*  
32 *business of auctioneering, shall be entitled to a copy of the written*  
33 *complaint and any allegation and supporting documentation*  
34 *provided by the complainant.* Where the informal resolution is  
35 unsuccessful and the board determines the allegations do not  
36 warrant further action, it may dismiss the complaint. When the  
37 informal resolution is unsuccessful and the board determines the  
38 allegations should be pursued, it shall refer the alleged violator to  
39 the appropriate government or law enforcement agency, or both,  
40 with a recommendation that it be pursued.



1 5772. (a) The superior court for the county in which any  
2 person has engaged or is about to engage in any act that constitutes  
3 a violation of this chapter may issue an injunction or other  
4 appropriate order restraining the violative conduct. Proceedings  
5 under this subdivision shall be governed by Chapter 3  
6 (commencing with Section 525) of Title 7 of Part 2 of the Code of  
7 Civil Procedure, except that no undertaking shall be required.

8 (b) The superior court for the county in which any person has  
9 engaged in any act that constitutes a violation of this chapter may  
10 order the person who committed the violation to make restitution  
11 to any person injured as a result of the violation.

12 (c) The remedies set forth in this section are in addition to, and  
13 not a limitation on, the authority provided for in any other section  
14 of this code.

15 5772.5. Any person who violates any provision of this  
16 chapter, who conspires with another to violate any provision of this  
17 chapter, or who knowingly engages an unlicensed person or  
18 organization to perform any act or service for which a license is  
19 required by this chapter, is guilty of a misdemeanor, which is  
20 punishable by a fine not exceeding one thousand dollars (\$1,000),  
21 by imprisonment in a county jail for not more than one year, or by  
22 both that fine and imprisonment.

23 5772.6. No person may bring or maintain any action in any  
24 court of this state for the collection of compensation for the  
25 performance of any act or service requiring a license under this  
26 chapter without alleging and proving that he or she was duly  
27 licensed at all times during the performance of the act or service.

28 5772.7. Any person who performs any act or service requiring  
29 a license under this chapter, but does not at the time of performance  
30 hold a valid license, shall not receive or be entitled to receive any  
31 moneys or consideration in payment for the act or service.

32 5774. In conducting the business of auctioneering, each  
33 auctioneer and auction company, and the company's owners,  
34 partners, officers, agents, and employees, shall do all of the  
35 following:

36 (a) Follow all lawful requests of the owner or consignor of the  
37 goods being sold at auction with regard to the sale of those goods.

38 (b) Perform his or her duties so that the highest or most  
39 favorable offer made by a member of his or her audience is



1 accepted, except to the extent that any item or sale is offered with  
2 reserve or subject to confirmation.

3 (c) Truthfully represent the goods to be auctioned.

4 (d) Otherwise perform his or her duties in accordance with the  
5 Commercial Code, the Penal Code, and this chapter.

6 5774.1. Each auctioneer who operates his or her own auction  
7 company as a sole proprietor, and each auction company, together  
8 with its owners, partners, and officers, that employs an auctioneer,  
9 shall be responsible for all violations committed by the auctioneer  
10 or by any company employee in the conduct of auction business.  
11 An auctioneer who is employed by an auctioneer or auction  
12 company shall be responsible for all violations committed by him  
13 or her in the conduct of auction business.

14 5774.2. Each auctioneer and auction company, together with  
15 the company's owners, partners, and officers, that contracts with  
16 an auctioneer to perform specified auction duties shall be exempt  
17 from responsibility under this chapter for any violations of this  
18 chapter arising from the auctioneer's performance of those duties.

19 5774.3. An auctioneer who contracts with an auctioneer or  
20 auction company to perform specified auction duties shall be  
21 responsible for only those violations of this chapter arising from  
22 the performance of those duties.

23 5774.4. It is a violation of this chapter for any auctioneer or  
24 auction company, or the company's owners, partners, and officers,  
25 to direct or knowingly permit any violation of this chapter by any  
26 auctioneer employed by or under contract with that auctioneer or  
27 auction company, or by any owner, partner, officer, agent, or  
28 employee of the auction company.

29 5775. Every person licensed under this chapter shall do all of  
30 the following:

31 (a) Display his or her license, or a certified copy of the license  
32 issued by the board, in full and unobstructed view of the public at  
33 his or her principal place of business.

34 (b) Disclose his or her name, trade or business name, telephone  
35 number and state license number in all advertising of auctions.  
36 This section shall not apply to business cards, business stationery,  
37 or to any advertisement that does not specify an auction date.

38 (c) Post or distribute to the audience the terms, conditions,  
39 restrictions, and procedures whereby goods will be sold at the  
40 auction, and announce any changes to those terms, conditions,



1 restrictions, and procedures prior to the beginning of the auction  
2 sale.

3 (d) Have in his or her possession at the time of any auction sale  
4 a pocket card, which shall be presented upon demand to any police  
5 officer, sheriff, state official, or citizen. This requirement applies  
6 only to licensed auctioneers.

7 (e) Keep and maintain, at the licensee's address of record,  
8 complete and correct records and accounts pertaining to the  
9 licensee's licensed activity for a period of not less than two years.  
10 The records shall include the name and address of the owner or  
11 consignor and of any buyer of goods at any auction sale engaged  
12 in or conducted by the licensee, a description of the goods, the  
13 terms and conditions of the acceptance and sale of the goods, all  
14 written contracts with owners and consignors, and accounts of all  
15 moneys received and paid out, whether on the licensee's own  
16 behalf or as agent, as a result of those activities.

17 (f) Within ~~30~~ 15 working days after the sale transaction,  
18 provide, or cause to be provided, an account to the owner or  
19 consignor of all goods that are the subject of an auction engaged  
20 in or conducted by the licensee.

21 (g) Within ~~30~~ 15 working days after a sale transaction of goods,  
22 pay, or cause to be paid, all moneys and proceeds due to the owner  
23 or the consignor of all goods that were the subject of an auction  
24 engaged in or conducted by the licensee, unless delay is compelled  
25 by legal proceedings or the inability of the licensee, through no  
26 fault of his or her own, to transfer title to the goods or to comply  
27 with any provision of this chapter, the Commercial Code, the Code  
28 of Civil Procedure, or any other applicable provision of law.

29 (h) Maintain the funds of all owners, consignors, buyers, and  
30 other clients and customers separate from his or her personal funds  
31 and accounts.

32 (i) Immediately prior to offering any item for sale, disclose to  
33 the audience the existence and amount of any liens or other  
34 encumbrances on the item, unless the item is sold as free and clear.  
35 For the purposes of this subdivision, an item is "free and clear"  
36 if all liens and encumbrances on the item are to be paid prior to the  
37 transfer of title.

38 (j) Within two working days after an auction sale, return the  
39 blank check or deposit of each buyer who purchased no goods at  
40 the sale.



1 (k) Within ~~30~~ 15 working days of any auction sale, refund that  
2 portion of the deposit of each buyer that exceeds the cost of the  
3 goods purchased, unless delay is compelled by legal proceedings,  
4 by the inability of the licensee, through no fault of his or her own,  
5 to transfer title to the goods or to comply with any provision of this  
6 chapter, the Commercial Code, the Code of Civil Procedure, or  
7 other applicable provision of law, or unless the buyer violated the  
8 terms of a written agreement that he or she take possession of  
9 purchased goods within a specified period of time.

10 5776. In addition to other requirements and prohibitions of  
11 this chapter, it is a violation of this chapter for any person to do any  
12 of the following:

13 (a) Fail to comply with any provision of this code, any  
14 regulation of the board, or with any provision of the Commercial  
15 Code (including, but not limited to, Sections 2328 and 2401), the  
16 Code of Civil Procedure, the Penal Code, or any law administered  
17 by the State Board of Equalization, relating to the auctioneering  
18 business, including, but not limited to, sales and the transfer of title  
19 of goods.

20 (b) Give false evidence of any kind to the board, any board  
21 member, or the executive officer, in obtaining or renewing a  
22 license.

23 (c) Engage in or offer to engage in any activity for which a  
24 license is required by this chapter without holding that license.

25 (d) Represent himself or herself as, or use the title of,  
26 auctioneer or auction company, or any other title whereby the  
27 person could be reasonably understood to be practicing or offering  
28 to practice as an auctioneer or auction company, unless he or she  
29 has obtained the license or licenses required by this chapter for the  
30 activity or activities.

31 (e) Aid or abet the activity of any other person that violates any  
32 provision of this chapter.

33 (f) Impersonate any licensee or present or attempt to present as  
34 his or her own the license of another.

35 (g) Use or present, as if it were valid, an expired, suspended, or  
36 revoked license.

37 (h) Conduct any auction business for which a license is  
38 required as an individual, partnership, or corporation unless the  
39 person holds a valid license issued to that same individual,  
40 partnership, or corporation.



1 (i) Subvert or attempt to subvert any licensing examination or  
2 the administration of a licensing examination, including, but not  
3 limited to, any of the following:

4 (1) Conduct that violates the security of the examination  
5 materials: removing from the examination room any examination  
6 materials; the unauthorized photographic or other mechanical  
7 reproduction of any portion of the actual licensing examination;  
8 aiding by any means the unauthorized photographic or other  
9 mechanical reproduction of any portion of the actual licensing  
10 examination; paying or using professional or paid  
11 examination-takers for the purpose of reconstructing any portion  
12 of the licensing examination; obtaining examination questions or  
13 other examination material, except by specific authorization,  
14 either before, during, or after an examination or using or  
15 purporting to use any examination questions or materials that were  
16 improperly removed or taken from any examination for the  
17 purpose of instructing or preparing applicants for examinations; or  
18 selling, distributing, buying, receiving, or having unauthorized  
19 possession of any portion of a future, current, or previously  
20 administered licensing examination.

21 (2) Conduct that violates the standard of examination  
22 administration: communicating with any other examinee during  
23 the administration of a licensing examination; copying answers  
24 from another examinee or permitting one's answers to be copied  
25 by another examinee; having in one's possession during the  
26 administration of the licensing examination any books,  
27 equipment, notes, written or printed materials, or data of any kind,  
28 other than the examination materials distributed or otherwise  
29 authorized to be in one's possession during the examination; or  
30 impersonating any examinee or having an impersonator take the  
31 licensing examination on one's behalf.

32 (j) Place or use any misleading or untruthful advertising or  
33 statements or make any substantial misrepresentation in  
34 conducting auctioneering business.

35 (k) Sell goods at auction before the auctioneer or auction  
36 company involved has first entered into a written contract with the  
37 owner or consignor of the goods, which contract sets forth the  
38 terms and conditions upon which the licensee accepts the goods for  
39 sale. The written contract shall include all of the following:



1 (1) The licensee's name, trade or business name, state license  
2 number, business address, and business telephone number.

3 (2) An inventory of the item or items to be sold at auction.

4 (3) A description of the services to be provided and the agreed  
5 consideration for the services, that shall explicitly state which  
6 party shall be responsible for advertising and other expenses.

7 (4) The approximate date or dates when the item or items will  
8 be sold at auction.

9 (5) A statement as to which party shall be responsible for  
10 insuring the item or items against loss by theft, fire, or other means.

11 (6) A disclosure that the licensee is bonded to, and licensed and  
12 regulated by, the California Auctioneer Commission, and a  
13 disclosure of the commission's current address.

14 (l) Sell goods at auction before the auctioneer or auction  
15 company involved has first entered into a written contract with the  
16 auctioneer who is to conduct the auction, if other than the licensee,  
17 that specifies the duties to be performed by each party.

18 (m) Fail to reduce to writing all amendments to any written  
19 contract with an owner, consignor, or an auctioneer.

20 (n) Fail to abide by the terms of any written contract required  
21 by this section.

22 (o) Cause or allow any person to bid at a sale for the sole  
23 purpose of increasing the bid on any item or items being sold by  
24 the auctioneer, except as authorized by Section 2328 of the  
25 Commercial Code or by this chapter. A violation includes, but is  
26 not limited to, any of the following:

27 (1) Stating any increased bid greater than that offered by the  
28 last highest bidder when, in fact, no person has made such a bid.

29 (2) Allowing the owner, consignor, or agent, of any item or  
30 items to bid on the item or items, without disclosing to the audience  
31 that the owner, consignor, or agent has reserved the right to so bid.

32 (3) Any violation of Section 535 of the Penal Code.

33 (p) Knowingly misrepresent the nature of any item or items to  
34 be sold at auction, including, but not limited to, age, authenticity,  
35 value, condition, or origin. In addition, it shall be required that the  
36 buyer of the misrepresented item be refunded the purchase price  
37 of the item or items within 24 hours of return to the licensee of the  
38 item by the buyer, provided that the item is returned within five  
39 days after the date of the auction sale.



1 (q) Misrepresent the terms, conditions, restrictions, or  
2 procedures under which goods will be sold at auction.

3 (r) Sell any item subject to sales tax without possessing a valid  
4 and unrevoked seller’s permit from the State Board of  
5 Equalization.

6 5777. It shall be grounds for denial, suspension, or revocation  
7 of an auctioneer or auction company license for the applicant or  
8 licensee, or any of its owners, partners, or officers, to be convicted  
9 of forgery, embezzlement, obtaining money under false pretenses,  
10 extortion, conspiracy to defraud, receiving stolen property,  
11 issuance of insufficient fund checks, or any similar offense  
12 substantially, related to the auctioneering profession.

13

14 Article 5. Denial, Suspension, and Revocation of Licenses

15

16 5786.4. An application may be denied without a hearing if,  
17 within one year prior to the filing of the application, the board  
18 denied an application from the same applicant on the same ground  
19 in accordance with Section 5786.

20 5786.5. Notwithstanding any other provision of law, and as  
21 prescribed by regulations of the board, any person whose  
22 application is subject to denial under this chapter may be issued a  
23 license conditioned upon those terms, conditions, and restrictions  
24 deemed necessary to protect the public, in addition to the  
25 requirements of this chapter applicable to licensees generally, for  
26 a period not to exceed two years following the issuance of the  
27 restricted license. Terms and conditions may include, but are not  
28 limited to, the prohibition of certain acts, the requirement of  
29 certain disclosures, the requirement of certain accountings or  
30 reportings to the board or others, the restriction of the scope of  
31 practice, and any other terms, conditions, or restrictions deemed  
32 necessary to protect the public, including the payment of any fine  
33 that was or could have been assessed against the applicant for a  
34 violation of any provision of this chapter.

35 5787. In any proceeding conducted by the board concerning  
36 the denial of an application for a license, the suspension or  
37 revocation of a license, or other disciplinary action against a  
38 person who holds a license, upon the ground that the applicant or  
39 licensee has been convicted of a crime substantially related to the  
40 qualifications, functions, and duties of an auctioneer or auction



1 company, the record of conviction of the crime shall be conclusive  
2 evidence of the fact that the conviction occurred, but only of that  
3 fact, and the board may inquire into the circumstances surrounding  
4 the commission of the crime in order to fix the degree of discipline  
5 or to determine if the conviction is substantially related to the  
6 qualifications, functions, and duties of the licensee in question.

7 5788. After a hearing held in accordance with Chapter 5  
8 (commencing with Section 11500) of Part 1 of Division 3 of Title  
9 2 of the Government Code, resulting in the finding of a violation  
10 by the licensee of Section 5777, the board may do the following:

11 (a) Suspend the license of the licensee for a period not to exceed  
12 two years, and, at its discretion, allow continued activity of the  
13 licensee under specified restrictions and conditions.

14 (b) Revoke the license of the licensee.

15 5789. A person whose license has been revoked or who has  
16 been prohibited from engaging in any or all activities related to the  
17 auctioneering business may, not earlier than one year after the  
18 effective date of that order, apply to the board for reconsideration.  
19 The board may thereupon issue a new license for good cause or  
20 may issue a restricted license as provided in Section 5786.5.

21  
22 Article 6. Revenue  
23

24 5790. All fees received under this chapter shall be deposited  
25 in the Auctioneer Commission Fund.

26 5791. Fees are fixed as follows:

27 (a) The nonrefundable application fee for an initial auctioneer  
28 or auction company license is thirty-five dollars (\$35).

29 (b) The license fee for an auctioneer or auction company shall  
30 not exceed four hundred dollars (\$400).

31 (c) The nonrefundable examination fee for an auctioneer  
32 license is fifty dollars (\$50).

33 (d) The nonrefundable reexamination fee is thirty-five dollars  
34 (\$35).

35 (e) The fee for the administration of an examination other than  
36 those that are regularly scheduled shall be two hundred dollars  
37 (\$200), and the applicant may be required additionally to pay the  
38 cost of facilities or services necessary for the administration of that  
39 examination.

1 (f) The license renewal fee for an auctioneer or auction  
2 company shall not exceed four hundred dollars (\$400).

3 (g) The fingerprint processing fee is that amount charged to the  
4 commission by the Department of Justice.

5 (h) The charge for a duplicate license or to replace a lost or  
6 destroyed license is ten dollars (\$10).

7 (i) The charge for the cost of a certified copy of any license,  
8 including any pocket card, or for the certification of any license,  
9 is ten dollars (\$10).

10 (j) The fee for a change in the name of a licensee or for an  
11 additional name is twenty dollars (\$20).

12 (k) The fee for processing a dishonored check is twenty dollars  
13 (\$20).

14 5791.5. The commission may sell any publication, material,  
15 sign, or any item deemed appropriate by the board at a price that  
16 reimburses the commission for the preparation and distribution of  
17 the publication, material, sign, or item.

18 SEC. 3. A loan is hereby authorized from the General Fund to  
19 the Auctioneer Commission Fund on or after July 1, 2003, in an  
20 amount of up to one hundred thousand dollars (\$100,000) to fund  
21 operating, personnel, and other startup costs of the Board of  
22 Governors of the California Auctioneer Commission. The loan  
23 shall be repaid to the General Fund over a period of up to 11 months  
24 ending not later than June 30, 2004, and the amount repaid shall  
25 include interest at the rate accruing to moneys in the Pooled Money  
26 Investment Account. The loan amount and repayment period shall  
27 be minimized to the extent possible based upon actual board  
28 financing requirements as determined by the Department of  
29 Finance.

30 SEC. 4. Title 2.95 (commencing with Section 1812.600) of  
31 Part 4 of Division 3 of the Civil Code is repealed.

32 SEC. 5. No reimbursement is required by this act pursuant to  
33 Section 6 of Article XIII B of the California Constitution because  
34 the only costs that may be incurred by a local agency or school  
35 district will be incurred because this act creates a new crime or  
36 infraction, eliminates a crime or infraction, or changes the penalty  
37 for a crime or infraction, within the meaning of Section 17556 of  
38 the Government Code, or changes the definition of a crime within



1 the meaning of Section 6 of Article XIII B of the California  
2 Constitution.

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