

ASSEMBLY BILL

No. 1712

Introduced by Committee on Judiciary (Corbett (Chair), Dutra, Hancock, Jackson, Laird, Longville, Montanez, Steinberg, and Vargas)

February 26, 2003

An act to amend Section 17511.12 of the Business and Professions Code, to amend Sections 798.61 and 1780 of the Civil Code, to amend Sections 116.130, 116.410, 116.530, 198.5, 393, 415.50, 1141.10, 1141.11, 1141.12, 1141.16, 1141.18, 1141.24, and 1161.2 of the Code of Civil Procedure, to amend Section 48295 of the Education Code, to amend Sections 12150 and 12151 of the Fish and Game Code, to amend Sections 68097, 68097.1, and 68097.2 of the Government Code, to amend Sections 664 and 667 of the Harbors and Navigation Code, to amend Sections 108580, 110375, 111880, 111895, 117070, and 117120 of the Health and Safety Code, to amend Section 6436 of the Labor Code, to amend Sections 1035, 1038, and 1462.2 of, and to repeal Sections 1034 and 1039 of, the Penal Code, to amend Section 5560 of the Public Resources Code, and to amend Section 310 of the Water Code, relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1712, as introduced, Assembly Committee on Judiciary. Courts.

The California Constitution provides for the abolition of municipal courts and their unification within superior courts, as specified.

This bill would conform various statutory provisions of law to the abolition of municipal courts and their unification within the superior courts.

This bill would also make other statutory changes with respect to arbitration proceedings, guardian ad litem, jury lists, service of process, small claims court, and witness fees.

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

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

1 SECTION 1. Section 17511.12 of the Business and
2 Professions Code is amended to read:

3 17511.12. (a) Every telephonic seller shall maintain a bond
4 issued by a surety company admitted to do business in this state.
5 The bond shall be in the amount of one hundred thousand dollars
6 (\$100,000) in favor of the State of California for the benefit of any
7 person suffering pecuniary loss in a transaction commenced
8 during the period of bond coverage with a telephonic seller who
9 violated this chapter. The bond shall include coverage for the
10 payment of the portion of any judgment, including a judgment
11 entered pursuant to Section 17203 or 17535, that provides for
12 restitution to any person suffering pecuniary loss, notwithstanding
13 whether the surety is joined or served in the action or proceeding.
14 A copy of the bond shall be filed with the Consumer Law Section
15 of the Department of Justice. This bond ~~shall~~ may not be required
16 of any cable television operator franchised or licensed pursuant to
17 Section 53066 of the Government Code.

18 (b) (1) At least 10 days prior to the inception of any promotion
19 offering a premium with an actual market value or advertised value
20 of five hundred dollars (\$500) or more, the telephonic seller shall
21 notify the Attorney General in writing of the details of the
22 promotion, describing the premium, its current market value, the
23 value at which it is advertised or held out to the customer, and the
24 date the premium shall be awarded. All premiums offered shall be
25 awarded. The telephonic seller shall maintain an additional bond
26 for the total current market value or advertised value, whichever
27 is greater, of the premiums held out or advertised to be available
28 to a purchaser or recipient. A copy of the bond shall be filed with
29 the Consumer Law Section of the Department of Justice. The bond
30 shall be for the benefit of any person entitled to the premium who
31 did not receive it within 30 days of the date disclosed to the
32 Attorney General as the date on which the premium would be



1 awarded. The amount paid to a person under a bond required by
2 this subdivision shall *may* not exceed the greater of the current
3 market value or advertised or represented value of the premium
4 offered to that person. The bond shall include coverage for the
5 payment of any judgment, including a judgment entered pursuant
6 to Section 17203 or 17535, that provides for payment of the value
7 of premiums that were not timely awarded, notwithstanding
8 whether the surety is joined or served in the action or proceeding.
9 The bond shall also provide for payment upon motion by the
10 Attorney General pursuant to subdivision (d) in the event the seller
11 fails to provide the Attorney General with proof of the award of
12 premiums as required in paragraph (2).

13 (2) Within 45 days after the date disclosed to the Attorney
14 General for the award of premiums, the seller shall provide to the
15 Attorney General proof that all premiums were awarded. The
16 proof shall include the names, addresses, and telephone numbers
17 of the recipients of the premiums and the date or dates on which
18 the premiums were awarded. The bond shall be maintained until
19 the seller files proof with the Attorney General as required by this
20 subdivision or until payment of the amount of the bond is ordered
21 pursuant to subdivision (d).

22 (c) (1) In addition to any other means for the enforcement of
23 the surety's liability on a bond required by this section, the surety's
24 liability on the bond may be enforced by motion, as provided in
25 this subdivision, after a judgment has been obtained against the
26 seller.

27 (2) The Attorney General, district attorney, city attorney, or
28 any other person who obtained a judgment for restitution against
29 the seller, as described in subdivision (a), may file a motion in the
30 court that entered the judgment to enforce liability on the bond
31 without first attempting to enforce the judgment against any party
32 liable under the judgment.

33 (3) The notice of motion, the motion, and a copy for the
34 judgment shall be served on the surety as provided in Chapter 5
35 (commencing with Section 1010) of Title 14 of Part 2 of the Code
36 of Civil Procedure. The notice shall set forth the amount of the
37 claim and a brief statement indicating that the claim is covered by
38 the bond. Service shall also be made on the Consumer Law Section
39 of the Department of Justice.



1 (4) The court shall grant the motion unless ~~(A)~~ the surety
2 establishes that the claim is not covered by the bond, or ~~(B)~~ the
3 court sustains an objection made by the Attorney General that the
4 grant of the motion might impair the rights of actual or potential
5 claimants or is not in the public interest.

6 (d) (1) In addition to any other means for the enforcement of
7 the surety’s liability on a bond required by subdivision (b), the
8 surety’s liability on the bond may be enforced by motion as
9 provided in this subdivision.

10 (2) The Attorney General, district attorney, city attorney, or
11 any person who claims the premium, may file a motion in ~~a~~ *the*
12 *superior* court of ~~competent jurisdiction in the county or judicial~~
13 ~~district~~ from which the seller made an offer of a premium, in which
14 the seller maintains any office or place of business, or in which an
15 offeree of the premium resides. The motion shall set forth the
16 nature of the seller’s offer, the greater of the current market value
17 or advertised or represented value of the premium, the date by
18 which the premium should have been awarded, and the fact that the
19 premium was not awarded as represented.

20 (3) The notice of motion and motion shall be served on the
21 surety as provided in Chapter 5 (commencing with Section 1010)
22 of Title 14 of Part 2 of the Code of Civil Procedure.

23 (4) The court shall grant the motion unless the surety
24 establishes that the claim is untrue or is not covered by the bond.

25 (5) The Attorney General may file a motion in ~~a~~ *the superior*
26 court of ~~competent jurisdiction in the county or judicial district~~
27 from which the seller made an offer of a premium, or in which an
28 offeree of a premium resides, for the payment of the entire bond
29 if the seller fails to file proof with the Attorney General of the
30 award of all premiums as required by paragraph (2) of subdivision
31 (b). The notice of motion and motion shall be served as provided
32 in Chapter 5 (commencing with Section 1010) of Title 14 of Part
33 2 of the Code of Civil Procedure. The motion shall be granted if
34 the Attorney General establishes that the seller failed to file proof
35 of making the timely award of all premiums. The recovery on the
36 bond shall be distributed pro rata to the promised recipients of the
37 premiums to the extent their identity is actually known to the
38 Attorney General at the time payment is made by the surety. The
39 balance of the recovery shall be paid to any judicially established



1 consumer protection trust fund designated by the Attorney
2 General or as directed by the court under the cy pres doctrine.

3 (e) No stay of a motion filed pursuant to this section ~~shall~~ *may*
4 be granted pending the determination of conflicting claims among
5 beneficiaries. An order enforcing liability on a bond may be
6 enforced in the same manner as a money judgment pursuant to
7 Title 9 (commencing with Section 680.010) of Part 2 of the Code
8 of Civil Procedure. Nothing herein affects the rights of the surety
9 against the principal.

10 (f) The surety ~~shall~~ *is not be* liable on the bond for payment of
11 a judgment against a seller for any violation of this chapter unless
12 the action or proceeding is filed within two years after the
13 cancellation or termination of the bond, the termination of the
14 seller's registration, or the seller's cessation of business,
15 whichever is later.

16 (g) The surety ~~shall~~ *is not be* liable on a motion made pursuant
17 to subdivision (d) unless the motion is filed within two years of the
18 date on which the seller represented the premium was to have been
19 awarded.

20 (h) For the purpose of this section, "judgment" includes a final
21 order in a proceeding for the termination of telephone service
22 pursuant to Public Utilities Commission Tariff Rule 31.

23 (i) Chapter 2 (commencing with Section 995.010) of Title 14
24 of Part 2 of the Code of Civil Procedure shall apply to the
25 enforcement of a bond given pursuant to this section except to the
26 extent of any inconsistency with this section, in which event this
27 section shall apply.

28 SEC. 2. Section 798.61 of the Civil Code is amended to read:

29 798.61. (a) (1) As used in this section, "abandoned
30 mobilehome" means a mobilehome about which all of the
31 following are true:

32 (A) It is located in a mobilehome park on a site for which no
33 rent has been paid to the management for the preceding 60 days.

34 (B) It is unoccupied.

35 (C) A reasonable person would believe it to be abandoned.

36 (2) For purposes of this section:

37 (A) "Mobilehome" shall include a trailer coach, as defined in
38 Section 635 of the Vehicle Code, or a recreational vehicle, as
39 defined in Section 18010 of the Health and Safety Code, if the
40 trailer coach or recreational vehicle also satisfies the requirements



1 of paragraph (1), including being located on any site within a
2 mobilehome park, even if the site is in a separate designated
3 section pursuant to Section 18215 of the Health and Safety Code.

4 (B) “Abandoned mobilehome” shall include a mobilehome
5 that is uninhabitable because of its total or partial destruction that
6 cannot be rehabilitated, if the mobilehome also satisfies the
7 requirements of paragraph (1).

8 (b) After determining a mobilehome in a mobilehome park to
9 be an abandoned mobilehome, the management shall post a notice
10 of belief of abandonment on the mobilehome for not less than 30
11 days, and shall deposit copies of the notice in the United States
12 mail, postage prepaid, addressed to the homeowner at the last
13 known address and to any known registered owner, if different
14 from the homeowner, and to any known holder of a security
15 interest in the abandoned mobilehome. This notice shall be mailed
16 by registered or certified mail with a return receipt requested.

17 (c) Thirty or more days following posting pursuant to
18 subdivision (b), the management may file a petition in the
19 ~~municipal superior court for the judicial district in the county in~~
20 ~~which the mobilehome park is located, or in the superior court in~~
21 ~~a county in which there is no municipal court,~~ for a judicial
22 declaration of abandonment of the mobilehome. A proceeding
23 under this subdivision is a limited civil case. Copies of the petition
24 shall be served upon the homeowner, any known registered owner,
25 and any known person having a lien or security interest of record
26 in the mobilehome by posting a copy on the mobilehome and
27 mailing copies to those persons at their last known addresses by
28 registered or certified mail with a return receipt requested in the
29 United States mail, postage prepaid.

30 (d) (1) Hearing on the petition shall be given precedence over
31 other matters on the court’s calendar.

32 (2) If, at the hearing, the petitioner shows by a preponderance
33 of the evidence that the criteria for an abandoned mobilehome has
34 been satisfied and no party establishes an interest therein at the
35 hearing, the court shall enter a judgment of abandonment,
36 determine the amount of charges to which the petitioner is entitled,
37 and award attorney’s fees and costs to the petitioner. For purposes
38 of this subdivision, an interest in the mobilehome shall be
39 established by evidence of a right to possession of the mobilehome
40 or a security or ownership interest in the mobilehome.



1 (3) A default may be entered by the court clerk upon request of
2 the petitioner, and a default judgment shall be thereupon entered,
3 if no responsive pleading is filed within 15 days after service of the
4 petition by mail.

5 (e) (1) Within 10 days following a judgment of abandonment,
6 the management shall enter the abandoned mobilehome and
7 complete an inventory of the contents and submit the inventory to
8 the court.

9 (2) During this period the management shall post and mail
10 notice of intent to sell the abandoned mobilehome and its contents
11 under this section, and announcing the date of sale, in the same
12 manner as provided for the notice of determination of
13 abandonment under subdivision (b).

14 (3) At any time prior to the sale of a mobilehome under this
15 section, any person having a right to possession of the mobilehome
16 may recover and remove it from the premises upon payment to the
17 management of all rent or other charges due, including reasonable
18 costs of storage and other costs awarded by the court. Upon receipt
19 of this payment and removal of the mobilehome from the premises
20 pursuant to this paragraph, the management shall immediately file
21 an acknowledgment of satisfaction of judgment pursuant to
22 Section 724.030 of the Code of Civil Procedure.

23 (f) Following the judgment of abandonment, but not less than
24 10 days following the notice of sale specified in subdivision (e),
25 the management may conduct a public sale of the abandoned
26 mobilehome and its contents. The management may bid at the sale
27 and shall have the right to offset its bids to the extent of the total
28 amount due it under this section. The proceeds of the sale shall be
29 retained by the management, but any unclaimed amount thus
30 retained over and above the amount to which the management is
31 entitled under this section shall be deemed abandoned property
32 and shall be paid into the treasury of the county in which the sale
33 took place within 30 days of the date of the sale. The former
34 homeowner or any other owner may claim any or all of that
35 unclaimed amount within one year from the date of payment to the
36 county by making application to the county treasurer or other
37 official designated by the county. If the county pays any or all of
38 that unclaimed amount to a claimant, neither the county nor any
39 officer or employee of the county is liable to any other claimant as
40 to the amount paid.



1 (g) Within 30 days of the date of the sale, the management shall
 2 submit to the court an accounting of the moneys received from the
 3 sale and the disposition of the money and the items contained in
 4 the inventory submitted to the court pursuant to subdivision (e).

5 (h) The management shall provide the purchaser at the sale
 6 with a copy of the judgment of abandonment and evidence of the
 7 sale, as shall be specified by the State Department of Housing and
 8 Community Development or the Department of Motor Vehicles,
 9 which shall register title in the abandoned mobilehome to the
 10 purchaser upon presentation thereof. The sale shall pass title to the
 11 purchaser free of any prior interest, including any security interest
 12 or lien, except the lien provided for in Section 18116.1 of the
 13 Health and Safety Code, in the abandoned mobilehome.

14 SEC. 3. Section 1780 of the Civil Code is amended to read:

15 1780. (a) Any consumer who suffers any damage as a result
 16 of the use or employment by any person of a method, act, or
 17 practice declared to be unlawful by Section 1770 may bring an
 18 action against that person to recover or obtain any of the following:

19 (1) Actual damages, but in no case shall the total award of
 20 damages in a class action be less than one thousand dollars
 21 (\$1,000).

22 (2) An order enjoining the methods, acts, or practices.

23 (3) Restitution of property.

24 (4) Punitive damages.

25 (5) Any other relief that the court deems proper.

26 (b) (1) Any consumer who is a senior citizen or a disabled
 27 person, as defined in subdivisions (f) and (g) of Section 1761, as
 28 part of an action under subdivision (a), may seek and be awarded,
 29 in addition to the remedies specified therein, up to five thousand
 30 dollars (\$5,000) where the trier of fact ~~(1) finds~~ *does all of the*
 31 *following:*

32 (A) *Finds* that the consumer has suffered substantial physical,
 33 emotional, or economic damage resulting from the defendant's
 34 conduct, ~~(2) makes~~.

35 (B) *Makes* an affirmative finding in regard to one or more of the
 36 factors set forth in subdivision (b) of Section 3345, ~~and (3) finds~~.

37 (C) *Finds* that an additional award is appropriate. ~~Judgment~~

38 (2) *Judgment* in a class action by senior citizens or disabled
 39 persons under Section 1781 may award each class member such



1 an additional award where the trier of fact has made the foregoing
2 findings.

3 (c) An action under subdivision (a) or (b) may be commenced
4 in the county in which the person against whom it is brought
5 resides, has his or her principal place of business, or is doing
6 business, or in the county where the transaction or any substantial
7 portion thereof occurred.

8 ~~If within the county there is a municipal court, having~~
9 ~~jurisdiction of the subject matter, established in the city and county~~
10 ~~or judicial district in which the person against whom the action is~~
11 ~~brought resides, has his or her principal place of business, or is~~
12 ~~doing business, or in which the transaction or any substantial~~
13 ~~portion thereof occurred, then that court is the proper court for the~~
14 ~~trial of the action. Otherwise, any court in the county having~~
15 ~~jurisdiction of the subject matter is the proper court for the trial~~
16 ~~thereof.~~

17 In any action subject to the provisions of this section,
18 concurrently with the filing of the complaint, the plaintiff shall file
19 an affidavit stating facts showing that the action has been
20 commenced in a county ~~or judicial district~~ described in this section
21 as a proper place for the trial of the action. If a plaintiff fails to file
22 the affidavit required by this section, the court shall, upon its own
23 motion or upon motion of any party, dismiss the action without
24 prejudice.

25 (d) The court shall award court costs and attorney's fees to a
26 prevailing plaintiff in litigation filed pursuant to this section.
27 Reasonable attorney's fees may be awarded to a prevailing
28 defendant upon a finding by the court that the plaintiff's
29 prosecution of the action was not in good faith.

30 SEC. 4. Section 116.130 of the Code of Civil Procedure is
31 amended to read:

32 116.130. In this chapter, unless the context indicates
33 otherwise:

34 (a) "Plaintiff" means the party who has filed a small claims
35 action; ~~the~~. *The* term includes a defendant who has filed a claim
36 against a plaintiff.

37 (b) "Defendant" means the party against whom the plaintiff
38 has filed a small claims action; ~~the~~. *The* term includes a plaintiff
39 against whom a defendant has filed a claim.



- 1 (c) “Judgment creditor” means the party, whether plaintiff or
2 defendant, in whose favor a money judgment has been rendered.
- 3 (d) “Judgment debtor” means the party, whether plaintiff or
4 defendant, against whom a money judgment has been rendered.
- 5 (e) “Person” means an individual, corporation, partnership,
6 *limited liability partnership*, limited liability company, firm,
7 association, or other entity.
- 8 (f) “Individual” means a natural person.
- 9 (g) “Party” means a plaintiff or defendant.
- 10 (h) “Motion” means a party’s written request to the court for
11 an order or other action;~~the~~. *The* term includes an informal written
12 request to the court, such as a letter.
- 13 (i) “Declaration” means a written statement signed by an
14 individual which includes the date and place of signing, and a
15 statement under penalty of perjury *under the laws of this state* that
16 its contents are true and correct.
- 17 (j) “Good cause” means circumstances sufficient to justify the
18 requested order or other action, as determined by the judge.
- 19 (k) “Mail” means first-class mail with postage fully prepaid,
20 unless stated otherwise.
- 21 SEC. 5. Section 116.410 of the Code of Civil Procedure is
22 amended to read:
- 23 116.410. (a) Any person who is at least 18 years of age and
24 mentally competent may be a party to a small claims action.
- 25 (b) A minor or incompetent person may appear by a guardian
26 ad litem appointed by a judge of the court in which the action is
27 filed.
- 28 (c) *An attorney may not be appointed as a guardian ad litem*
29 *pursuant to subdivision (b), unless he or she is any of the following*
30 *persons:*
- 31 (1) *The parent, spouse, domestic partner, grandparent, brother,*
32 *sister, uncle, aunt, or child, whether natural, step, foster, or by*
33 *adoption, of the minor or incompetent person.*
- 34 (2) *The guardian of the minor or incompetent person.*
- 35 (3) *The conservator of the minor or incompetent person.*
- 36 (d) *The appointment of any guardian ad litem pursuant to*
37 *subdivision (b) shall be made in the minutes of the action and not*
38 *later than the calling of the case for trial.*
- 39 SEC. 6. Section 116.530 of the Code of Civil Procedure is
40 amended to read:



1 116.530. (a) Except as permitted by this section, no attorney
2 may take part in the conduct or defense of a small claims action.

3 (b) Subdivision (a) does not apply if the attorney is appearing
4 to maintain or defend an action ~~(1) by~~ *in any of the following*
5 *capacities:*

6 (1) *By or against himself or herself,* ~~(2) by.~~

7 (2) *By or against a partnership in which he or she is a general*
8 *partner and in which all the partners are attorneys,* ~~or (3) by.~~

9 (3) *By or against a professional corporation of which he or she*
10 *is an officer or director and of which all other officers and directors*
11 *are attorneys.*

12 (4) *As a guardian ad litem pursuant to Section 116.410.*

13 (c) Nothing in this section shall prevent an attorney from ~~(1)~~
14 ~~providing~~ *doing any of the following:*

15 (1) *Providing* advice to a party to a small claims action, either
16 before or after the commencement of the action; ~~(2) testifying.~~

17 (2) *Testifying* to facts of which he or she has personal
18 knowledge and about which he or she is competent to testify; ~~(3)~~
19 ~~representing.~~

20 (3) *Representing* a party in an appeal to the superior court; ~~and~~
21 ~~(4) representing.~~

22 (4) *Representing* a party in connection with the enforcement of
23 a judgment.

24 SEC. 7. Section 198.5 of the Code of Civil Procedure, as
25 amended by Section 41 of Chapter 784 of the Statutes of 2002, is
26 amended to read:

27 198.5. If sessions of the superior court are held in a location
28 other than the county seat, the names for master jury lists and
29 qualified jury lists to serve in a session may be selected from the
30 area in which the session is held, pursuant to a local superior court
31 rule that ~~(1)~~ divides the county in a manner that provides all
32 qualified persons in the county an equal opportunity to be
33 considered for jury service ~~and (2) gives each prospective juror~~
34 ~~residing in the county an opportunity to elect to serve on a jury with~~
35 ~~respect to a trial held anywhere in the county.~~ Nothing in this
36 section precludes the court, in its discretion, from ordering a
37 countywide venire in the interest of justice.

38 SEC. 8. Section 393 of the Code of Civil Procedure is
39 amended to read:



1 393. ~~(1)~~ Subject to the power of the court to transfer actions
2 and proceedings as provided in this title, the county in which the
3 cause, or some part thereof *of the cause*, arose, is the proper county
4 for the trial of the following actions:

5 (a) For the recovery of a penalty or forfeiture imposed by
6 statute, except, that when it is imposed for an offense committed
7 on a lake, river, or other stream of water, situated in two or more
8 counties, the action may be tried in any county bordering on the
9 lake, river, or stream, and opposite to the place where the offense
10 was committed;

11 (b) Against a public officer or person especially appointed to
12 execute the duties of a public officer, for an act done by the officer
13 or person in virtue of the office, or against a person who, by the
14 officer's command or in the officer's aid, does anything touching
15 the duties of the officer.

16 ~~(2) The proper court for the trial of any such action, in the~~
17 ~~county hereinabove designated as the proper county, shall be~~
18 ~~determined as follows:~~

19 ~~If there is a municipal court having jurisdiction of the subject~~
20 ~~matter of the action, established in the city and county or judicial~~
21 ~~district in which the cause, or some part thereof, arose, that court~~
22 ~~is the proper court for the trial of the action; otherwise, any court~~
23 ~~in the county, having jurisdiction of the subject matter of the~~
24 ~~action, is a proper court for the trial thereof. In the case of offenses~~
25 ~~committed on a lake, river, or stream, hereinabove mentioned, the~~
26 ~~court, having jurisdiction of the subject matter of the action,~~
27 ~~nearest to the place where the offense was committed, in any~~
28 ~~county mentioned in subdivision 1 of this section, is a proper court~~
29 ~~for the trial of the action.~~

30 SEC. 9. Section 415.50 of the Code of Civil Procedure is
31 amended to read:

32 415.50. (a) A summons may be served by publication if upon
33 affidavit it appears to the satisfaction of the court in which the
34 action is pending that the party to be served cannot with reasonable
35 diligence be served in another manner specified in this article and
36 that either:

37 (1) A cause of action exists against the party upon whom
38 service is to be made or he or she is a necessary or proper party to
39 the action.



1 (2) The party to be served has or claims an interest in real or
2 personal property in this state that is subject to the jurisdiction of
3 the court or the relief demanded in the action consists wholly or in
4 part in excluding the party from any interest in the property.

5 (b) The court shall order the summons to be published in a
6 named newspaper, published in this state, that is most likely to give
7 actual notice to the party to be served ~~and~~. *If the party to be served*
8 *resides or is located out of this state, the court may also order the*
9 *summons to be published in a named newspaper outside this state*
10 *that is most likely to give actual notice to that party. The order shall*
11 *direct that a copy of the summons, the complaint, and the order for*
12 *publication be forthwith mailed to the party if his or her address*
13 *is ascertained before expiration of the time prescribed for*
14 *publication of the summons. Except as otherwise provided by*
15 *statute, the publication shall be made as provided by Section 6064*
16 *of the Government Code unless the court, in its discretion, orders*
17 *publication for a longer period.*

18 (c) Service of a summons in this manner is deemed complete
19 as provided in Section 6064 of the Government Code.

20 (d) Notwithstanding an order for publication of the summons,
21 a summons may be served in another manner authorized by this
22 chapter, in which event the service shall supersede any published
23 summons.

24 (e) As a condition of establishing that the party to be served
25 cannot with reasonable diligence be served in another manner
26 specified in this article, the court may not require that a search be
27 conducted of public databases where access by a registered process
28 server to residential addresses is prohibited by law or by published
29 policy of the agency providing the database, including, but not
30 limited to, voter registration rolls and records of the Department
31 of Motor Vehicles.

32 SEC. 10. Section 1141.10 of the Code of Civil Procedure is
33 amended to read:

34 1141.10. (a) The Legislature finds and declares that litigation
35 involving small civil ~~claims has become~~ *cases can be* so costly and
36 complex ~~as to make more difficult the efficient resolution of such~~
37 ~~that efficiently resolving these civil claims that courts are unable~~
38 ~~to efficiently resolve the increased number of cases filed each year~~
39 *cases is difficult*, and that the resulting delays and expenses *may*
40 deny parties their right to a timely resolution of minor civil



1 disputes. The Legislature further finds and declares that arbitration
2 has proven to be an efficient and equitable method for resolving
3 small ~~claims~~ *civil cases*, and that courts should encourage or
4 require the use of arbitration for ~~such~~ *those* actions whenever
5 possible.

6 (b) It is the intent of the Legislature that:

7 (1) Arbitration hearings held pursuant to this chapter shall
8 provide parties with a simplified and economical procedure for
9 obtaining prompt and equitable resolution of their disputes.

10 (2) Arbitration hearings shall be as informal ~~and private~~ as
11 possible and shall provide the parties themselves maximum
12 opportunity to participate directly in the resolution of their
13 disputes, and shall be held during nonjudicial hours whenever
14 possible.

15 (3) Members of the State Bar selected to serve as arbitrators
16 should have experience with cases of the type under dispute and
17 are urged to volunteer their services without compensation
18 whenever possible.

19 SEC. 11. Section 1141.11 of the Code of Civil Procedure is
20 amended to read:

21 1141.11. (a) In each superior court with 18 or more judges,
22 all at-issue *nonexempt, unlimited* civil actions pending on or filed
23 after the operative date of this chapter, other than a limited civil
24 case, shall be submitted to arbitration, by the presiding judge or the
25 judge designated, under this chapter if the amount in controversy,
26 in the opinion of the court, will not exceed fifty thousand dollars
27 (\$50,000) for each plaintiff, which decision shall not be
28 appealable.

29 (b) In each superior court with fewer than 18 judges, the court
30 may provide by local rule, when it determines that it is in the best
31 interests of justice, that all ~~at-issue~~ *nonexempt, unlimited* civil
32 ~~actions pending on or filed after the operative date of this chapter~~
33 *cases*, shall be submitted to arbitration ~~by the presiding judge or~~
34 ~~the judge designated~~ under this chapter if the amount in
35 controversy, in the opinion of the court, will not exceed fifty
36 thousand dollars (\$50,000) for each plaintiff, ~~which decision shall~~
37 ~~not be appealable~~.

38 (c) Each superior court may provide by local rule, when it is
39 determined to be in the best interests of justice, that all ~~at-issue~~
40 *nonexempt, limited* civil cases ~~pending on or filed after the~~



1 ~~operative date of this chapter~~, shall be submitted to arbitration by
2 ~~the presiding judge or the judge designated~~ under this chapter. This
3 section does not apply to any action in small claims court, or to any
4 action maintained pursuant to Section 1781 of the Civil Code or
5 Section 1161 ~~of this code~~.

6 (d) (1) In each court that has adopted judicial arbitration
7 pursuant to subdivision (c), all limited civil cases ~~pending on or~~
8 ~~after July 1, 1990~~, that involve a claim for money damages against
9 a single defendant as a result of a motor vehicle collision, except
10 those heard in the small claims division, shall be submitted to
11 arbitration within 120 days of the filing of the defendant's answer
12 to the complaint (except as may be extended by the court for good
13 cause) before an arbitrator selected by the court, ~~subject to~~
14 ~~disqualification for cause as specified in Sections 170.1 and 170.6~~.

15 (2) The court may provide by local rule for the voluntary or
16 mandatory use of case questionnaires, established under Section
17 93, in any proceeding subject to these provisions. Where local
18 rules provide for the use of case questionnaires, the questionnaires
19 shall be exchanged by the parties upon the defendant's answer and
20 completed and returned within 60 days.

21 (3) For the purposes of this subdivision, the term "single
22 defendant" means ~~(1) an~~ *any of the following*:

23 (A) *An individual defendant, whether a person or an entity,* ~~(2)~~
24 ~~two~~.

25 (B) *Two more persons covered by the same insurance policy*
26 *applicable to the motor vehicle collision,* ~~or (3) two~~.

27 (C) *Two or more persons residing in the same household when*
28 *no insurance policy exists that is applicable to the motor vehicle*
29 *collision.* ~~The~~

30 (4) *The naming of one or more cross-defendants, not a plaintiff,*
31 *shall constitute a multiple-defendant case not subject to the*
32 *provisions of this subdivision.*

33 ~~(e) No local rule of a superior court providing for judicial~~
34 ~~arbitration may dispense with the conference required pursuant to~~
35 ~~Section 1141.16.~~

36 SEC. 12. Section 1141.12 of the Code of Civil Procedure is
37 amended to read:

38 1141.12. (a) In each superior court in which arbitration is
39 required pursuant to subdivision (a) of Section 1141.11, or
40 pursuant to a local rule adopted under subdivision (b) of Section



1 1141.11, upon stipulation of the parties, any at-issue civil actions
2 shall be submitted to arbitration regardless of the amount in
3 controversy.

4 (b) In all ~~other~~ superior courts, the Judicial Council shall
5 provide by rule for a uniform system of arbitration of the following
6 causes:

7 (i)

8 (1) Any cause, *regardless of the amount in controversy*, upon
9 stipulation of the parties.

10 (ii)

11 (2) Upon filing of an election by the plaintiff, any cause in
12 which the plaintiff agrees that the arbitration award ~~shall~~ *does not*
13 exceed the amount in controversy as specified in Section 1141.11.

14 ~~(c) Any election by a plaintiff shall be filed no sooner than the~~
15 ~~filing of the at-issue memorandum, and no later than 90 days~~
16 ~~before trial, or at a later time if permitted by the court.~~

17 SEC. 13. Section 1141.16 of the Code of Civil Procedure is
18 amended to read:

19 1141.16. (a) The determination of the amount in controversy,
20 under subdivision (a) or (b) of Section 1141.11 ~~and Section~~
21 ~~1141.12~~, shall be made by the court and the case ~~submitted~~ *referred*
22 to arbitration at any conference at which all parties are present or
23 represented by counsel. Such conference shall be held no later than
24 three months after the at-issue memorandum is filed or no later
25 than 90 days before trial, ~~whichever occurs first~~ *after all named*
26 *parties have appeared or defaulted. The determination shall be*
27 *made at a case management conference or based upon review of*
28 *the written submissions of the parties, as provided in rules adopted*
29 *by the Judicial Council. The determination shall be based on the*
30 *total amount of damages, and the judge may not consider*
31 *questions of liability or comparative negligence or any other*
32 *defense. At that time the court shall also make a determination*
33 *whether any prayer for equitable relief is frivolous or*
34 *insubstantial, which decision shall. The determination of the*
35 *amount in controversy and whether any prayer for equitable relief*
36 *is frivolous or insubstantial may not be appealable. The date of*
37 *such conference may be postponed upon motion of any party for*
38 *good cause shown. No determination pursuant to this section shall*
39 *be made if all parties stipulate in writing that the amount in*
40 *controversy exceeds the amount specified in Section 1141.11.*



1 (b) The determination and any stipulation of the amount in
2 controversy shall be without prejudice to any finding on the value
3 of the case by an arbitrator or in a subsequent trial de novo. ~~The~~
4 ~~determination shall be based on the total amount of damages, and~~
5 ~~the judge shall not consider questions of liability or comparative~~
6 ~~negligence or other defenses.~~

7 (c) ~~The~~ *Except as provided in this section, the arbitration*
8 *hearing may not be held until 210 days after the filing of the*
9 *complaint, or 240 days after the filing of a complaint if the parties*
10 *have stipulated to a continuance pursuant to subdivision (d) of*
11 *Section 68616 of the Government Code. A case shall be submitted*
12 *to arbitration at an earlier time upon* ~~the~~ *any of the following:*

13 (1) *The stipulation of the parties to an earlier arbitration*
14 *hearing.*

15 (2) *The written request of all plaintiffs, subject to a motion by*
16 *a defendant for good cause shown to delay the arbitration hearing.*

17 (d) ~~In cases submitted to arbitration pursuant to Section~~
18 ~~1141.11 or subdivision (a) of Section 1141.12 or paragraph (i) of~~
19 ~~subdivision (b) of Section 1141.12, an arbitrator shall be assigned~~
20 ~~to hear a case within 30 days from the time of its submission to~~
21 ~~arbitration.~~

22 (3) *An order of the court if the parties have stipulated, or the*
23 *court has ordered under Section 1141.24, that discovery other than*
24 *that permitted under Section 2034 will be permitted after the*
25 *arbitration award is rendered.*

26 SEC. 14. Section 1141.18 of the Code of Civil Procedure is
27 amended to read:

28 1141.18. (a) Arbitrators shall be retired judges, retired court
29 commissioners who were licensed to practice law prior to their
30 appointment as a commissioner, or members of the State Bar, and
31 shall sit individually. A judge may also serve as an arbitrator
32 without compensation. People who are not attorneys may serve as
33 arbitrators upon the stipulation of all parties.

34 (b) The Judicial Council rules shall provide for the
35 compensation, if any, of arbitrators, ~~except that no compensation~~
36 ~~shall be paid prior to the filing of the award by the arbitrator, or~~
37 ~~prior to the settlement of the case by the parties.~~ Compensation for
38 arbitrators shall, ~~unless waived in whole or in part, may not be less~~
39 ~~than one hundred fifty dollars (\$150) per case, or one hundred fifty~~
40 ~~dollars (\$150) per day, whichever is greater, except that the board~~



1 ~~of supervisors of a county or a city and county. A superior court~~
2 ~~may set a higher level of compensation for that county or city and~~
3 ~~county court. Arbitrators may waive compensation in whole or in~~
4 ~~part. No compensation shall be paid before the filing of the award~~
5 ~~by the arbitrator, or before the settlement of the case by the parties.~~

6 (c) ~~The board of governors of the State Bar shall provide by~~
7 ~~rule for the method of selection of arbitrators after consulting with~~
8 ~~administrative committees established pursuant to Rule 1603 of~~
9 ~~the Judicial Arbitration Rules for Civil Cases and with county bar~~
10 ~~associations in counties where there are no administrative~~
11 ~~committees. These rules shall provide for specialized panels and~~
12 ~~shall become operative upon approval of the Judicial Council. In~~
13 ~~cases submitted to arbitration under Section 1141.11 or 1141.12,~~
14 ~~an arbitrator shall be assigned within 30 days from the time of~~
15 ~~submission to arbitration.~~

16 (d) Any party may request the disqualification of the arbitrator
17 selected for his or her case on the grounds and by the procedures
18 specified in Section 170.1 or 170.6. A request for disqualification
19 of an arbitrator on grounds specified in Section 170.6 shall be
20 made within five days of the naming of the arbitrator. An arbitrator
21 shall disqualify himself or herself, upon demand of any party to the
22 arbitration made before the conclusion of the arbitration
23 proceedings on any of the grounds specified in Section 170.1.

24 SEC. 15. Section 1141.24 of the Code of Civil Procedure is
25 amended to read:

26 1141.24. In cases ordered to arbitration pursuant to
27 ~~subdivision (a) of Section 1141.16, absent a stipulation to the~~
28 ~~contrary 1114.11, no discovery other than that permitted by~~
29 Section 2034 is permissible after an arbitration award except by
30 *stipulation of the parties or by leave of court upon a showing of*
31 *good cause.*

32 SEC. 16. Section 1161.2 of the Code of Civil Procedure is
33 amended to read:

34 1161.2. (a) Except as provided in subdivision (g), in any case
35 filed under this chapter as a limited civil case, the court clerk ~~shall~~
36 *may* not allow access to the court file, index, register of actions, or
37 other court records until 60 days following the date the complaint
38 is filed, except pursuant to an ex parte court order upon a showing
39 of good cause therefor by any person including, but not limited to,
40 a newspaper publisher. However, the clerk of the court shall allow



1 access to the court file to a party in the action, an attorney of a party
2 in the action, or any other person who ~~(1)~~ provides to the clerk the
3 names of ~~at~~ *either of the following*:

4 (1) At least one plaintiff, one defendant, and the address,
5 including the apartment, unit, or space number, if applicable, of the
6 subject premises, ~~or (2) provides to the clerk the name of one.~~

7 (2) One of the parties or the case number, and can establish
8 through proper identification that he or she resides at the subject
9 premises.

10 (b) For purposes of this section, “good cause” includes, but is
11 not limited to, the gathering of newsworthy facts by a person
12 described in Section 1070 of the Evidence Code. It is the intent of
13 the Legislature that a simple procedure be established to request
14 the ex parte order described in subdivision (a).

15 (c) Except as provided in subdivision (g), upon the filing of any
16 case so restricted, the court clerk shall mail notice to each
17 defendant named in the action. The notice shall be mailed to the
18 address provided in the complaint. The notice shall contain a
19 statement that an unlawful detainer complaint (eviction action) has
20 been filed naming that party as a defendant, and that access to the
21 court file will be delayed for 60 days except to a party, an attorney
22 for one of the parties, or any other person who ~~(1)~~ provides to the
23 clerk the names of at least one plaintiff and one defendant in the
24 action and provides to the clerk the address, including any
25 applicable apartment, unit, or space number, of the subject
26 premises, ~~or (2) provides to the clerk the name of one of the parties~~
27 in the action or the case number and can establish through proper
28 identification that he or she lives at the subject premises. The
29 notice shall also contain a statement that access to the court index,
30 register of actions, or other records is not permitted until 60 days
31 after the complaint is filed, except pursuant to an ex parte order
32 upon a showing of good cause therefor. The notice shall contain
33 on its face the name and phone number of the county bar
34 association and the name and phone number of an office funded
35 by the federal Legal Services Corporation that provides legal
36 services to low-income persons in the county in which the action
37 is filed. The notice shall state that these numbers may be called for
38 legal advice regarding the case. The notice shall be issued between
39 24 and 48 hours of the filing of the complaint, excluding weekends
40 and holidays. One copy of the notice shall be addressed to “all



1 occupants” and mailed separately to the subject premises. The
2 notice ~~shall~~ *does* not constitute service of the summons and
3 complaint.

4 (d) Notwithstanding any other provision of law, the court shall
5 charge an additional fee of four dollars (\$4) for filing a first
6 appearance by the plaintiff. This fee shall be included as part of the
7 total filing fee for actions filed under this chapter.

8 (e) A ~~municipal court or the superior court in a county in which~~
9 ~~there is no municipal court~~, after consultation with local
10 associations of rental property owners, tenant groups, and
11 providers of legal services to tenants, may exempt itself from the
12 operation of this section upon a finding that unscrupulous eviction
13 defense services are not a substantial problem in the ~~judicial~~
14 ~~district county~~. The court shall review the finding every 12 months.
15 An exempt court ~~shall~~ *may* not charge the additional fee authorized
16 in subdivision (d).

17 (f) The Judicial Council shall examine the extent to which
18 requests for access to files pursuant to an ex parte order under
19 subdivision (a) are granted or denied, and if denied, the reason for
20 the denial of access.

21 (g) This section ~~shall~~ *does* not apply to a case that seeks to
22 terminate a mobilehome park tenancy if the statement of the
23 character of the proceeding in the caption of the complaint clearly
24 indicates that the complaint seeks termination of a mobilehome
25 park tenancy.

26 SEC. 17. Section 48295 of the Education Code is amended to
27 read:

28 48295. Any judge of a ~~municipal~~ *the superior* court, in the
29 ~~judicial district county~~ in which the school district is located, or in
30 which the offense is committed, ~~or judge of the superior court in~~
31 ~~a county in which there is no municipal court~~, has jurisdiction of
32 offenses committed under this article. A juvenile court has
33 jurisdiction of a violation of Section 48293 as provided by Section
34 601.4 of the Welfare and Institutions Code.

35 SEC. 18. Section 12150 of the Fish and Game Code is
36 amended to read:

37 12150. Whenever any person, while taking a bird or mammal,
38 kills or wounds any human being and that fact is ascertained by the
39 department, the department shall notify the district attorney of the
40 county in which the act occurred. The district attorney may



1 thereupon bring an action in the ~~municipal superior~~ court of the
2 ~~judicial district county~~ in which the act occurred ~~or in the superior~~
3 ~~court in a county in which there is no municipal court~~ for the
4 purpose of determining the cause of the killing or the wounding.
5 ~~Such~~ *These* proceedings shall be conducted in the same manner as
6 an action to try a misdemeanor and the defendant may request that
7 all findings of fact shall be made by a jury. The court shall inform
8 the defendant of the nature of the proceedings and of the
9 defendant's right to have a jury.

10 If it is found that ~~such person~~ *the defendant* did the killing or
11 wounding, but that it was not intentional or negligent, the court
12 shall dismiss the proceeding. Otherwise, if it is found that ~~such~~
13 ~~person~~ *the defendant* did the killing or wounding intentionally, by
14 an act of gross negligence, or while under the influence of alcohol,
15 the court shall issue an order permanently prohibiting the
16 defendant from taking any bird or mammal.

17 If it is found that ~~such person~~ *the defendant* was negligent, but
18 not grossly negligent, the court shall issue an order prohibiting the
19 defendant from taking any bird or mammal for a period specified
20 at the discretion of the court but not less than five years.

21 SEC. 19. Section 12151 of the Fish and Game Code is
22 amended to read:

23 12151. Whenever any person, while taking a bird or mammal,
24 kills or wounds any domestic animal belonging to another and that
25 fact is ascertained by the department, the department shall notify
26 the district attorney of the county in which the act occurred. The
27 district attorney may thereupon bring an action in the ~~municipal~~
28 ~~superior~~ court of the ~~judicial district county~~ in which the act
29 occurred ~~or in the superior court in a county in which there is no~~
30 ~~municipal court~~ for the purpose of determining the cause of the
31 killing or wounding. ~~Such~~ *These* proceedings shall be conducted
32 in the same manner as an action to try a misdemeanor and the
33 defendant may request that all findings of fact shall be made by a
34 jury. The court shall inform the defendant of the nature of the
35 proceedings and of the defendant's right to have a jury.

36 If it is found that ~~such person~~ *the defendant* did the killing or
37 wounding but that it was not intentional or negligent, the court
38 shall dismiss the proceeding. Otherwise, if it is found that ~~such~~
39 ~~person~~ *the defendant* did the killing or wounding intentionally or



1 negligently, the court shall issue an order prohibiting the defendant
2 from taking any bird or mammal for a period of five years.

3 SEC. 20. Section 68097 of the Government Code is amended
4 to read:

5 68097. Witnesses in civil cases may demand the payment of
6 their mileage and fees for one day, in advance, and when so
7 demanded ~~shall~~ *may* not be compelled to attend until the
8 allowances are paid except as hereinafter provided for employees
9 of the Department of Justice who are peace officers or analysts in
10 technical fields, peace officers of the Department of the California
11 Highway Patrol, peace officer members of the State Fire Marshal's
12 office, other state employees, *trial court employees*, sheriffs,
13 deputy sheriffs, marshals, deputy marshals, district attorney
14 inspectors, probation officers, building inspectors, firefighters,
15 and city police officers. For the purposes of this section and
16 Sections 68097.1 to 68097.10, inclusive, only, the term "peace
17 officer of the California Highway Patrol" shall include those
18 persons employed as vehicle inspection specialists by the
19 Department of the California Highway Patrol, the term
20 "firefighter" has the definition provided in Section 50925, and a
21 volunteer firefighter shall be deemed to be employed by the public
22 entity for which he or she volunteers as a firefighter.

23 SEC. 21. Section 68097.1 of the Government Code is
24 amended to read:

25 68097.1. (a) Whenever an employee of the Department of
26 Justice who is a peace officer or an analyst in a technical field,
27 peace officer of the Department of the California Highway Patrol,
28 peace officer member of the State Fire Marshal's office, sheriff,
29 deputy sheriff, marshal, deputy marshal, district attorney
30 inspector, probation officer, building inspector, firefighter, or city
31 police officer is required as a witness before any court or other
32 tribunal in any civil action or proceeding in connection with a
33 matter regarding an event or transaction which he or she has
34 perceived or investigated in the course of his or her duties, a
35 subpoena requiring his or her attendance may be served by
36 delivering a copy either to the person personally, or by delivering
37 two copies to his or her immediate superior at the public entity by
38 which he or she is employed or an agent designated by that
39 immediate superior to receive that service.



1 (b) Whenever any other state employee *or any employee of the*
2 *trial courts* is required as a witness before any court or other
3 tribunal in any civil action or proceeding in connection with a
4 matter, event, or transaction concerning which he or she has
5 expertise gained in the course of his or her duties, a subpoena
6 requiring his or her attendance may be served by delivering a copy
7 either to the person personally or by delivering two copies to his
8 or her immediate superior or agent designated by that immediate
9 superior to receive that service.

10 (c) The attendance of any person described in subdivisions (a)
11 and (b) may be required pursuant to this section only in accordance
12 with Section 1989 of the Code of Civil Procedure.

13 (d) As used in this section and in Sections 68097.2 and
14 68097.5, “tribunal” means any person or body before whom or
15 which attendance of witnesses may be required by subpoena,
16 including an arbitrator in arbitration proceedings.

17 SEC. 22. Section 68097.2 of the Government Code is
18 amended to read:

19 68097.2. (a) Any peace officer, as that term is defined in
20 Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of
21 the Penal Code, any firefighter, ~~or~~ any state employee, *any trial*
22 *court employee*, or any county employee, who is obliged by a
23 subpoena issued pursuant to Section 68097.1 to attend as a witness,
24 shall receive the salary or other compensation to which he or she
25 is normally entitled from the public entity by which he or she is
26 employed during the time that he or she travels to and from the
27 place where the court or other tribunal is located and while he or
28 she is required to remain at that place pursuant to the subpoena. He
29 or she shall also receive from the public entity by which he or she
30 is employed the actual necessary and reasonable traveling
31 expenses incurred by him or her in complying with the subpoena.

32 (b) The party at whose request the subpoena is issued shall
33 reimburse the public entity for the full cost to the public entity
34 incurred in paying the peace officer, firefighter, state employee,
35 *trial court employee*, or specified county employee his or her
36 salary or other compensation and traveling expenses as provided
37 for in this section, for each day that the peace officer, firefighter,
38 state employee, *trial court employee*, or specified county
39 employee is required to remain in attendance pursuant to the
40 subpoena. The amount of one hundred fifty dollars (\$150),



1 together with the subpoena, shall be tendered to the person
2 accepting the subpoena for each day that the peace officer,
3 firefighter, state employee, *trial court employee*, or specified
4 county employee is required to remain in attendance pursuant to
5 the subpoena.

6 (c) If the actual expenses should later prove to be less than the
7 amount tendered, the excess of the amount tendered shall be
8 refunded.

9 (d) If the actual expenses should later prove to be more than the
10 amount deposited, the difference shall be paid to the public entity
11 by the party at whose request the subpoena is issued.

12 (e) If a court continues a proceeding on its own motion, no
13 additional witness fee shall be required prior to the issuance of a
14 subpoena or the making of an order directing the peace officer,
15 firefighter, ~~or~~ state employee, *or trial court employee* to appear on
16 the date to which the proceeding is continued.

17 (f) For the purposes of the payment of the salary or other
18 compensation of a volunteer firefighter pursuant to subdivision
19 (a), a volunteer firefighter who is subpoenaed to appear as a
20 witness in connection with a matter regarding an event or
21 transaction which he or she has perceived or investigated in the
22 course of his or her duties as a volunteer firefighter, shall be
23 deemed to be entitled to reasonable compensation evidenced by
24 the compensation paid to firefighters in jurisdictions with similar
25 geographic and economic characteristics. However, the
26 requirements of subdivision (a) and of this subdivision are not
27 applicable if a volunteer firefighter will receive his or her regular
28 salary or other compensation pursuant to the policy of his or her
29 regular employer, for the periods during which compensation is
30 required under subdivision (a).

31 SEC. 23. Section 664 of the Harbors and Navigation Code is
32 amended to read:

33 664. (a) When any person is arrested for a violation of this
34 chapter or any regulation adopted by the department pursuant to
35 this chapter or any ordinance or local law relating to the operation
36 and equipment of vessels, and ~~such~~ *that* person is not immediately
37 taken before a magistrate, the arresting officer shall prepare in
38 duplicate a written notice to appear in court, containing the name
39 and address of such person, the offense charged, and the time and
40 place where and when ~~such~~ *that* person shall appear in court.



1 (b) The time specified in the notice to appear must be at least
2 five days after ~~such~~ *the* arrest.

3 (c) The place specified in the notice to appear shall be ~~either~~
4 *any of the following*:

5 ~~1.~~

6 (1) Before a ~~municipal court judge, or superior court judge in~~
7 ~~a county in which there is no municipal court, who is~~ within the
8 county in which the offense charged is alleged to have been
9 committed ~~and who has jurisdiction of the offense~~ and who is
10 nearest and most accessible ~~with reference~~ to the place where the
11 arrest is made; ~~or~~

12 ~~2.~~

13 (2) Upon demand of the person arrested, before a ~~municipal~~
14 ~~court judge, or superior court judge in a county in which there is~~
15 ~~no municipal court, having jurisdiction of such offense~~ at the
16 county seat of the county in which ~~such~~ *the* offense is alleged to
17 have been committed; ~~or before a judge in the judicial district in~~
18 ~~which the offense is alleged to have been committed.~~

19 ~~3.~~

20 (3) Before an officer authorized by the county, city, or city and
21 county, to receive a deposit of bail.

22 ~~4.~~

23 (4) Before a ~~municipal court judge, or superior court judge in~~
24 ~~a county in which there is no municipal court, within 50 miles by~~
25 the nearest road to the place of the alleged offense ~~who has~~
26 ~~jurisdiction of the offense~~ and whose ~~judicial district~~ *county*
27 contains any portion of the body of water upon which the offense
28 charged is alleged to have been committed.

29 (d) The officer shall deliver one copy of the notice to appear to
30 the arrested person and the arrested person in order to secure
31 release must give a written promise so to appear in court by signing
32 the duplicate notice which shall be retained by the officer.
33 Thereupon the arresting officer shall forthwith release the person
34 arrested from custody.

35 (e) The officer shall, as soon as practicable, file the duplicate
36 notice with the magistrate specified therein. Thereupon the
37 magistrate shall fix the amount of bail which in the magistrate's
38 judgment, in accordance with the provisions of Section 1275 of the
39 Penal Code, will be reasonable and sufficient for the appearance
40 of the defendant and shall indorse upon the notice a statement



1 signed by the defendant in the form set forth in Section 815a of the
 2 Penal Code. The defendant may, prior to the date upon which the
 3 defendant promised to appear in court, deposit with the magistrate
 4 the amount of bail thus set. Thereafter, at the time when the case
 5 is called for arraignment before the magistrate, if the defendant
 6 shall not appear, either in person or by counsel, the magistrate may
 7 declare the bail forfeited, and may in the magistrate’s discretion
 8 order that no further proceedings shall be had in ~~such~~ *the* case.

9 Upon the making of ~~such~~ *any* order that no further proceedings
 10 be had, all sums deposited as bail shall forthwith be paid into the
 11 county treasury for distribution pursuant to Section 1463 of the
 12 Penal Code.

13 (f) No warrant shall issue on ~~such~~ *any* charge for the arrest of
 14 a person who has given ~~such~~ *a* written promise to appear in court,
 15 unless and until the person has violated ~~such~~ *that* promise or has
 16 failed to deposit bail, to appear for arraignment, trial or judgment,
 17 or to comply with the terms and provisions of the judgment, as
 18 required by law.

19 SEC. 24. Section 667 of the Harbors and Navigation Code is
 20 amended to read:

21 667. In addition to any other court which may be a proper
 22 place of trial, any ~~municipal~~ *superior court location where those*
 23 *cases are tried*, within 50 miles by the nearest road to the place of
 24 the alleged offense ~~having jurisdiction of the offense, or the~~
 25 ~~superior court in a county in which there is no municipal court,~~
 26 shall be a proper place of trial of any person on a charge of
 27 violation of this chapter or any regulation adopted by the
 28 department pursuant to this chapter or any ordinance or local law
 29 relating to the operation and equipment of vessels if the ~~judicial~~
 30 ~~district~~ *county in which the court is located* includes any portion
 31 of the body of water upon which the offense charged is alleged to
 32 have been committed.

33 SEC. 25. Section 108580 of the Health and Safety Code is
 34 amended to read:

35 108580. When a toy is alleged to be in violation of this article,
 36 the department or the local health officer shall commence
 37 proceedings in the superior court, ~~or municipal court~~ in whose
 38 ~~jurisdiction~~ *county* the toy is located, for condemnation of the
 39 article.



1 SEC. 26. Section 110375 of the Health and Safety Code is
2 amended to read:

3 110375. (a) No container wherein commodities are packed
4 shall have a false bottom, false sidewalls, false lid or covering, or
5 be otherwise so constructed or filled, wholly or partially, as to
6 facilitate the perpetration of deception or fraud.

7 (b) No container shall be made, formed, or filled as to be
8 misleading. A container that does not allow the consumer to fully
9 view its contents shall be considered to be filled as to be misleading
10 if it contains nonfunctional slack fill. Slack fill is the difference
11 between the actual capacity of a container and the volume of
12 product contained therein. Nonfunctional slack fill is the empty
13 space in a package that is filled to less than its capacity for reasons
14 other than the following:

15 (1) Protection of the contents of the package.

16 (2) The requirements of machines used for enclosing the
17 contents of the package.

18 (3) Unavoidable product settling during shipping and
19 handling.

20 (4) The need to utilize a larger than required package or
21 container to provide adequate space for the legible presentation of
22 mandatory and necessary labeling information, such as those
23 based on the regulations adopted by the Food and Drug
24 Administration or state or federal agencies under federal or state
25 law, laws or regulations adopted by foreign governments, or under
26 an industrywide voluntary labeling program.

27 (5) The fact that the product consists of a commodity that is
28 packaged in a decorative or representational container where the
29 container is part of the presentation of the product and has value
30 that is both significant in proportion to the value of the product and
31 independent of its function to hold the product, such as a gift
32 combined with a container that is intended for further use after the
33 product is consumed, or durable commemorative or promotional
34 packages.

35 (6) An inability to increase the level of fill or to further reduce
36 the size of the package, such as where some minimum package size
37 is necessary to accommodate required labeling, discourage
38 pilfering, facilitate handling, or accommodate tamper-resistant
39 devices.



1 (7) The product container bears a reasonable relationship to the
2 actual amount of product contained inside, and the dimensions of
3 the actual product container, the product, or the amount of product
4 therein is visible to the consumer at the point of sale, or where
5 obvious secondary use packaging is involved.

6 (8) The dimensions of the product or immediate product
7 container are visible through the exterior packaging, or where the
8 actual size of the product or immediate product container is clearly
9 and conspicuously depicted on the exterior packaging,
10 accompanied by a clear and conspicuous disclosure that the
11 representation is the “actual size” of the product or the immediate
12 product container.

13 (9) The presence of any head space within an immediate
14 product container necessary to facilitate the mixing, adding,
15 shaking, or dispensing of liquids or powders by consumers prior
16 to use.

17 (10) The exterior packaging contains a product delivery or
18 dosing device if the device is visible, or a clear and conspicuous
19 depiction of the device appears on the exterior packaging, or it is
20 readily apparent from the conspicuous exterior disclosures or the
21 nature and name of the product that a delivery or dosing device is
22 contained in the package.

23 (11) The exterior packaging or immediate product container is
24 a kit that consists of a system, or multiple components, designed
25 to produce a particular result that is not dependent upon the
26 quantity of the contents, if the purpose of the kit is clearly and
27 conspicuously disclosed on the exterior packaging.

28 (12) The exterior packaging of the product is routinely
29 displayed using tester units or demonstrations to consumers in
30 retail stores, so that customers can see the actual, immediate
31 container of the product being sold, or a depiction of the actual size
32 ~~thereof~~ *of the container* prior to purchase.

33 (13) The exterior packaging consists of single or multi-unit
34 presentation boxes of holiday or gift packages if the purchaser can
35 adequately determine the quantity and sizes of the immediate
36 product container at the point of sale.

37 (14) The exterior packaging is for a combination of one
38 purchased product, together with a free sample or gift, wherein the
39 exterior packaging is necessarily larger than it would otherwise be
40 due to the inclusion of the sample or gift, if the presence of both



1 products and the quantity of each product are clearly and
2 conspicuously disclosed on the exterior packaging.

3 (c) Any sealer may seize a container that facilitates the
4 perpetration of deception or fraud and the contents of the
5 container. By order of the ~~municipal~~ or superior court of the city
6 or county within which a violation of this section occurs, the
7 containers seized shall be condemned and destroyed or released
8 upon ~~such conditions~~ *any condition* as the court may impose to
9 insure against their use in violation of this chapter. The contents
10 of any condemned container shall be returned to the owner ~~thereof~~
11 if the owner furnishes proper facilities for the return.

12 SEC. 27. Section 111880 of the Health and Safety Code is
13 amended to read:

14 111880. When a food, drug, device, or cosmetic is alleged to
15 be adulterated, misbranded, falsely advertised, or the sale of which
16 is otherwise in violation of this part, the department shall
17 commence proceedings in the superior court or ~~municipal court~~ in
18 whose ~~jurisdiction~~ *county* the food, drug, device, or cosmetic is
19 located, for condemnation of the article.

20 SEC. 28. Section 111895 of the Health and Safety Code is
21 amended to read:

22 111895. Any superior or ~~municipal~~ court of this state may
23 condemn any food, drug, device, or cosmetic under provisions of
24 this part. In the absence of ~~such~~ an order, the food, drug, device,
25 or cosmetic may be destroyed under the supervision of an
26 authorized agent of the department who has the written consent of
27 the owner, his or her attorney, or authorized representative.

28 SEC. 29. Section 117070 of the Health and Safety Code is
29 amended to read:

30 117070. Any violation of any ~~such~~ rule or regulation lawfully
31 made by the public agency is a misdemeanor. ~~Any judge of a~~
32 ~~municipal court within any judicial district~~ *The superior court of*
33 *the county* within which the reservoir lies in whole or in part, ~~or~~
34 ~~any superior court in a county in which there is no municipal court,~~
35 ~~shall have jurisdiction~~ *is a proper place for trial* of all prosecutions
36 for violations of any rules and regulations adopted by the public
37 agency.

38 SEC. 30. Section 117120 of the Health and Safety Code is
39 amended to read:



1 117120. Any violation of any rule or regulation lawfully
2 made by the governmental agency is a misdemeanor. ~~Any judge~~
3 ~~of a municipal court within any judicial district~~ *The superior court*
4 *of the county* within which the reservoir lies in whole or in part, ~~or~~
5 ~~any superior court in a county in which there is no municipal court,~~
6 ~~shall have jurisdiction~~ *is a proper place for trial* of all prosecutions
7 for violations of any ~~such~~ rules and regulations adopted by the
8 governmental agency.

9 SEC. 31. Section 6436 of the Labor Code is amended to read:

10 6436. The criminal complaint regarding a violation of Section
11 6505.5 may be brought by the Attorney General or by the district
12 attorney or prosecuting attorney of any city, in the ~~municipal~~
13 *superior court* of any county in the state with jurisdiction over the
14 contractor or employer, by reason of the contractor's or
15 employer's act or failure to act within that ~~jurisdiction~~ *county*. Any
16 penalty assessed by the court shall be paid to the office of the
17 prosecutor bringing the complaint, but if the case was referred to
18 the prosecutor by the division, or some other governmental unit,
19 one-half of the civil or criminal penalty assessed shall be paid to
20 that governmental unit.

21 SEC. 32. Section 1034 of the Penal Code is repealed.

22 ~~1034. In a criminal action pending in a municipal court, the~~
23 ~~court shall order a change of venue:~~

24 ~~(a) On motion of the defendant, to another judicial district~~
25 ~~when it appears that there is a reasonable likelihood that a fair and~~
26 ~~impartial trial cannot be had in the judicial district. When a change~~
27 ~~of venue is ordered by a municipal court, it shall be for the trial~~
28 ~~itself. All proceedings before trial shall occur in the judicial district~~
29 ~~of original venue, except when it is evident that a particular~~
30 ~~proceeding must be heard by the judge who is to preside over the~~
31 ~~trial.~~

32 ~~(b) On its own motion or on motion of any party, to an adjoining~~
33 ~~judicial district in the same county when it appears as a result of~~
34 ~~the exhaustion of all of the jury panels called that it will be~~
35 ~~impossible to secure a jury to try the cause in the judicial district~~
36 ~~or, when for the same reason it appears that it will be impossible~~
37 ~~to try the cause in any judicial district in the county, to a judicial~~
38 ~~district in an adjoining county.~~

39 ~~(c) On its own motion, to an adjoining judicial district in the~~
40 ~~same county, when it appears as a result of the unavailability of all~~



1 ~~the courts within a judicial district such that it will be unable to try~~
2 ~~the cause within the requirements of Section 1382. The court shall~~
3 ~~state its findings on the record. This subdivision is limited to those~~
4 ~~judicial districts operating under Judicial Council approved trial~~
5 ~~court coordination plans.~~

6 SEC. 33. Section 1035 of the Penal Code is amended to read:

7 1035. (a) ~~(1)~~In a criminal action pending in a ~~municipal~~
8 ~~superior~~ court, the court shall order a change of venue to another
9 ~~judicial district court~~ in the same county on motion of the
10 prosecution if it appears that the change will be for the
11 convenience of all parties to the action and the defendant and his
12 attorney, if any, consent in writing to the change.

13 ~~(2) In a misdemeanor criminal case pending in a municipal~~
14 ~~court, upon a motion by any party, the court may order a change~~
15 ~~of venue, for changes of plea, to the judicial district in the same~~
16 ~~county where an action filed first in time is pending against the~~
17 ~~defendant, when the court finds that the transfer would increase~~
18 ~~efficiency and advance the court's coordination plan. The court~~
19 ~~shall state its findings on the record. If the change of venue is from~~
20 ~~one prosecutorial agency to another within the same county, the~~
21 ~~transferring agency shall approve in writing the transfer to the~~
22 ~~other prosecuting agency. This subdivision shall apply only to~~
23 ~~those judicial districts operating under Judicial Council approved~~
24 ~~trial court coordination plans.~~

25 (b) A defendant arrested, held, or present in a county other than
26 that in which an indictment, information, felony complaint, or
27 felony probation violation is pending against the defendant, may
28 state in writing his or her agreement to plead guilty or nolo
29 contendere to some or all of the pending charges, to waive trial or
30 hearing in the county in which the pleading is pending, and to
31 consent to disposition of the case in the county in which that
32 defendant was arrested, held, or present, subject to the approval of
33 the district attorney for each county. Upon receipt of the
34 defendant's statement and of the written approval of the district
35 attorneys, the clerk of the court in which the pleading is pending
36 shall transmit the papers in the proceeding or certified copies
37 thereof to the clerk of the court for the county in which the
38 defendant is arrested, held, or present, and the prosecution shall
39 continue in that county. However, the proceedings shall be limited
40 solely to the purposes of plea and sentencing and not for trial. If,



1 after the proceeding has been transferred pursuant to this section,
2 the defendant pleads not guilty, the clerk shall return the papers to
3 the court in which the prosecution was commenced and the
4 proceeding shall be restored to the docket of that court. The
5 defendant's statement that the defendant wishes to plead guilty or
6 nolo contendere ~~shall~~ *may* not be used against the defendant.

7 SEC. 34. Section 1038 of the Penal Code is amended to read:

8 1038. ~~(a)~~—The Judicial Council shall adopt rules of practice
9 and procedure for the change of venue in criminal actions.

10 ~~(b) Judicial Council rules may provide for transfer of a~~
11 ~~misdemeanor or infraction case in the superior court in a county~~
12 ~~in which there is no municipal court to another branch or location~~
13 ~~of the superior court in the same county.~~

14 SEC. 35. Section 1039 of the Penal Code is repealed.

15 ~~1039. —A change of venue in a misdemeanor or infraction case~~
16 ~~shall be to a municipal court in the county to which the case is~~
17 ~~transferred or to the superior court if there is no municipal court~~
18 ~~in that county.~~

19 SEC. 36. Section 1462.2 of the Penal Code is amended to
20 read:

21 1462.2. Except as otherwise provided in the Vehicle Code, the
22 proper court for the trial of criminal cases amounting to
23 misdemeanor shall be ~~determined as follows: Any municipal~~
24 ~~court, having jurisdiction of the subject matter of the case,~~
25 ~~established in the superior court of the county within which the~~
26 ~~offense charged was committed, or the superior court in a county~~
27 ~~in which there is no municipal court, is the proper court for the trial~~
28 ~~of the case.~~

29 If an action or proceeding is commenced in a court ~~having~~
30 ~~jurisdiction of the subject matter thereof~~ other than the court herein
31 designated as the proper court for the trial, the action may,
32 notwithstanding, be tried in the court where commenced, unless
33 the defendant, at the time of pleading, requests an order
34 transferring the action or proceeding to the proper court. If after
35 ~~such~~ *that* request it appears that the action or proceeding was not
36 commenced in the proper court, the court shall order the action or
37 proceeding transferred to the proper court. The judge ~~must~~ *shall*,
38 at the time of arraignment, inform the defendant of the right to be
39 tried in the county ~~wherein~~ *where* the offense was committed.



1 SEC. 37. Section 5560 of the Public Resources Code is
2 amended to read:

3 5560. (a) Violation of any ordinance, rule, or regulation
4 adopted pursuant to this article is a misdemeanor punishable by a
5 fine not to exceed five hundred dollars (\$500) or by imprisonment
6 in the county jail for a period not to exceed six months, or by both
7 ~~such~~ fine and imprisonment, unless the board provides that a
8 violation of any ordinance, rule, or regulation is an infraction,
9 which shall be punishable by a fine not to exceed fifty dollars
10 (\$50).

11 (b) Any ~~municipal superior court which may be established of~~
12 ~~a county lying wholly or in part within the district, or superior court~~
13 ~~in a county in which there is no municipal court, shall have~~
14 ~~jurisdiction is a proper court for trial~~ of all prosecutions under this
15 article for violations of any ordinance, rule, or regulation adopted
16 by the board.

17 SEC. 38. Section 310 of the Water Code is amended to read:

18 310. All prosecutions for the violation of any of the provisions
19 of this article shall be instituted in the ~~municipal superior court of~~
20 the county ~~in which where~~ the well is situated, ~~or in the superior~~
21 ~~court in a county in which there is no municipal court.~~

