

AMENDED IN ASSEMBLY MARCH 23, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2111

Introduced by Assembly Member Smyth

February 18, 2010

An act to amend Sections 9855, 9855.2, and 9855.9 of, *and to add Sections 9855.15 and 9855.85 to*, the Business and Professions Code, to amend Section 1794.41 of the Civil Code, and to amend ~~Sections 12800 and 12830~~ *Section 12800* of, and to repeal Section 116.5 of, the Insurance Code, relating to service contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2111, as amended, Smyth. Service contracts.

(1) Existing law, the Electronic and Appliance Repair Dealer Registration Law, makes it unlawful for any person to act as a service contract administrator or a service contract seller without first registering with the Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation.

~~(1) Existing~~

Existing law regulates service contracts, as defined, relating to maintenance or repair of specified sets and appliances. A service contract may include provisions for incidental payment of indemnity, not exceeding the retail value of \$250 per year. Existing law prohibits a service contract administrator, as defined, from being an obligor, as defined, on a service contract and existing law requires these service contract administrators to maintain a service contract reimbursement policy, as defined.

This bill would change the definition of service contract by expanding the items a contract may cover to include accessories of electronic sets

or appliances. The bill would delete the \$250 per year limit on incidental payments. The bill would also change the definition of service contract administrator to no longer exclude service contract sellers and insurers admitted to do business in the state. The bill would authorize a service contract administrator to be an obligor on a service contract where all service contracts under which the service contract administrator is obligated to perform are insured under a service contract reimbursement insurance policy.

~~The bill would make other technical and clarifying changes.~~

Existing law defines a service contract seller as a person who sells or offers to sell a service contract to a service contractholder, including a person who is the obligor under a service contract sold by the seller, manufacturer, or repairer of the product covered by the service contract.

This bill would specify that a service contract seller also means a 3rd party, including an obligor who is not the seller, manufacturer, or repairer of the product. The bill would require a 3rd party obligor to obtain a service contract reimbursement policy. The bill would specify that a service contract administrator or a 3rd party seller acting as an obligor without a service contract reimbursement policy shall be deemed to be unlawfully transacting the business of insurance and therefore subject to specified criminal and monetary penalty provisions. Because willfully transacting the business of insurance without a certificate of authority would constitute a crime, the bill would impose a state-mandated local program.

~~(2) Existing~~

Existing law prohibits a service contract seller from issuing a service contract without complying with specific requirements. The provisions regarding service contracts are in effect until January 1, 2013.

This bill would instead prohibit a service contract seller from issuing a service contract unless the obligor under the contract has complied with specific requirements. The bill would extend the repeal date for the provisions regarding service contracts to January 1, 2018.

Existing law makes these provisions relating to service contracts inoperative on January 1, 2013.

This bill would extend the operation of these provisions to January 1, 2018.

The bill would make other technical and clarifying changes.

~~(3)~~

(2) Existing law prohibits a service contract covering any motor vehicle, home appliance, or home electronic product purchased for use

in this state from being offered for sale or sold unless several elements exist, including that the contract is cancelable by the purchaser under certain conditions.

This bill would change the required conditions of a cancellation in that the seller would no longer be required to indicate in the contract which of specified bases for a pro rata refund the seller is using.

~~(4)~~

~~(3) Existing law provides that an express warranty warranting a motor vehicle lubricant, treatment, fluid, or additive that covers incidental or consequential damage resulting from a failure of the lubricant, treatment, fluid, or additive, is automobile insurance, unless certain requirements are met.~~

~~This bill would delete those provisions.~~

~~(5)~~

~~(4) Existing law defines vehicle service contract for purposes of provisions relating to sellers of vehicles.~~

~~This bill would add to the definition of a vehicle service contract an agreement, provided with or without separate consideration, that promises to repair, replace, or maintain a motor vehicle or watercraft, or to indemnify for the repair, replacement, or maintenance of a motor vehicle or watercraft, conditioned upon the use of a specific brand or brands of lubricant, treatment, fluid, or additive.~~

~~(6) Existing law requires that prior to incurring an obligation under a vehicle service contract, an obligor file with the Insurance Commissioner, and receive the commissioner's approval to use, a copy of an insurance policy covering 100% of the obligor's vehicle service contract obligations. An obligor is authorized to have on file with the commissioner only one active policy from one insurer at any time. Any violation of this provision is a crime.~~

~~This bill would authorize an obligor to have more than one policy on file with the commissioner where the obligor annually files with the commissioner a report certified as accurate by an officer or director of the obligor that lists each of its insured vehicle service contract programs and the corresponding insurance policy under which each program is insured. Because this bill would create a new crime, it would impose a state-mandated local program.~~

~~(7)~~

~~(5) 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: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 9855 of the Business and Professions
2 Code is amended to read:

3 9855. The definitions used in this section shall govern the
4 construction and terms as used in this chapter:

5 (a) "Service contract" means a contract in writing to perform,
6 over a fixed period of time or for a specified duration, services
7 relating to the maintenance, replacement, or repair of an electronic
8 set or appliance, as defined by this chapter, and their accessories
9 or of furniture, jewelry, lawn and garden equipment, power tools,
10 fitness equipment, telephone equipment, small kitchen appliances
11 and tools, or home health care products, and may include provisions
12 for incidental payment of indemnity under limited circumstances,
13 including, but not limited to, power surges, food spoilage, or
14 accidental damage from handling.

15 (b) "Service contract administrator" or "administrator" means
16 a person who performs or arranges, or has an affiliate who performs
17 or arranges, the collection, maintenance, or disbursement of
18 moneys to compensate any party for claims or repairs pursuant to
19 a service contract, and who also performs or arranges, or has an
20 affiliate who performs or arranges, any of the following activities
21 on behalf of service contract sellers:

22 (1) Providing service contract sellers with service contract forms.

23 (2) Participating in the adjustment of claims arising from service
24 contracts.

25 (3) Arranging on behalf of service contract sellers the insurance
26 required by Section 9855.2.

27 A service contract administrator shall not be an obligor on a
28 service contract unless all service contracts under which the service
29 contract administrator is obligated to perform are insured under a
30 service contract reimbursement insurance policy.

31 (c) (1) "Service contract seller" or "seller" means a person who
32 sells or offers to sell a service contract to a service contractholder,
33 including a person who is the obligor under a service contract sold

1 by the seller, manufacturer, or repairer of the product covered by
2 the service contract.

3 (2) “Service contract seller” or “seller” also ~~includes~~ *means* a
4 third party, including an obligor, who is not the seller,
5 manufacturer, or repairer of the product. *However, a third party*
6 *shall not be an obligor on a service contract unless the obligor*
7 *obtains a service contract reimbursement policy for all service*
8 *contracts under which the third party is obligated under the terms*
9 *of a service contract.*

10 (d) “Service contractholder” means a person who purchases or
11 receives a service contract from a service contract seller.

12 (e) “Service contractor” means a service contract administrator
13 or a service contract seller.

14 (f) “Service contract reimbursement insurance policy” means
15 a policy of insurance issued by an insurer admitted to do business
16 in this state providing coverage for all obligations and liabilities
17 incurred by a service contract seller under the terms of the service
18 contracts sold in this state by the service contract seller to a service
19 contractholder. The service contract reimbursement insurance
20 policy shall either cover all service contracts sold or specifically
21 cover those contracts sold to residents of the State of California.

22 (g) “Obligor” is the entity financially and legally obligated under
23 the terms of a service contract.

24 (h) The terms “consumer goods,” “manufacturer,” “retail seller,”
25 “retailer,” and “sale” shall have the same meanings ascribed to
26 them in Section 1791 of the Civil Code.

27 *SEC. 2. Section 9855.15 is added to the Business and*
28 *Professions Code, to read:*

29 *9855.15. A service contract administrator who is an obligor*
30 *on a service contract and is registered as a service contract*
31 *administrator may perform all the functions permitted by a seller*
32 *and shall not be required to register separately as a seller.*

33 ~~SEC. 2.~~

34 *SEC. 3. Section 9855.2 of the Business and Professions Code*
35 *is amended to read:*

36 9855.2. (a) A service contract seller shall not issue, sell, or
37 offer for sale a service contract unless the obligor under the service
38 contract has complied with one of the following requirements:

39 (1) Files with the director one of the following:

1 (A) The most recent annual report on Form 10-K required by
2 the Securities and Exchange Commission, reflecting a net worth
3 greater than the sum of the deferred revenues from service contracts
4 in force. If the service contractor is a foreign corporation that files
5 a comparable audited financial statement with its home government
6 or with the United States government, the director may deem that
7 statement an acceptable substitute for Form 10-K.

8 (B) The most recent audited financial statement reflecting a net
9 worth of not less than one hundred million dollars (\$100,000,000).
10 The financial statement shall be certified by a certified public
11 accountant who is licensed in the state where the service contract
12 seller maintains its principal place of business or the seller's state
13 of domestic incorporation.

14 (2) Obtains a service contract reimbursement insurance policy.

15 (3) Sells service contracts that are administered by a service
16 contract administrator who has obtained a service contract
17 reimbursement insurance policy covering the seller's service
18 contracts.

19 (4) Maintains and annually verifies to the director a funded
20 account held in escrow equal to a minimum of 25 percent of the
21 deferred revenues from the service contracts in force.

22 (b) A service contract administrator shall not administer service
23 contracts sold in this state unless a service contract reimbursement
24 insurance policy covering these service contracts has been obtained.

25 *SEC. 4. Section 9855.85 is added to the Business and*
26 *Professions Code, to read:*

27 *9855.85. Unless otherwise lawfully transacting the business*
28 *of insurance pursuant to a certificate of authority issued pursuant*
29 *to Section 700 of the Insurance Code for the appropriate class, a*
30 *service contract administrator or third party seller acting as an*
31 *obligor on a service contract without having a service contract*
32 *reimbursement insurance policy covering all service contracts*
33 *under which the service contract administrator or third party seller*
34 *is obligated shall be deemed to be unlawfully transacting the*
35 *business of insurance and shall be subject to subdivision (b) of*
36 *Section 700 and Section 12921.8 of the Insurance Code.*

37 ~~SEC. 3.~~

38 *SEC. 5. Section 9855.9 of the Business and Professions Code*
39 *is amended to read:*

1 9855.9. This article shall remain in effect only until January
2 1, 2018, and as of that date is repealed, unless a later enacted
3 statute, that is enacted before January 1, 2018, deletes or extends
4 that date.

5 ~~SEC. 4.~~

6 *SEC. 6.* Section 1794.41 of the Civil Code is amended to read:

7 1794.41. (a) No service contract covering any motor vehicle,
8 home appliance or home electronic product purchased for use in
9 this state may be offered for sale or sold unless all of the following
10 elements exist:

11 (1) The contract shall contain the disclosures specified in Section
12 1794.4 and shall disclose in the manner described in that section
13 the buyer's cancellation and refund rights provided by this section.

14 (2) The contract shall be available for inspection by the buyer
15 prior to purchase and either the contract, or a brochure which
16 specifically describes the terms, conditions, and exclusions of the
17 contract, and the provisions of this section relating to contract
18 delivery, cancellation, and refund, shall be delivered to the buyer
19 at or before the time of purchase of the contract. Within 60 days
20 after the date of purchase, the contract itself shall be delivered to
21 the buyer. If a service contract for a home appliance or a home
22 electronic product is sold by means of a telephone solicitation, the
23 seller may elect to satisfy the requirements of this paragraph by
24 mailing or delivering the contract to the buyer not later than 30
25 days after the date of the sale of the contract.

26 (3) The contract is applicable only to items, costs, and time
27 periods not covered by the express warranty. However, a service
28 contract may run concurrently with or overlap an express warranty
29 if (A) the contract covers items or costs not covered by the express
30 warranty or (B) the contract provides relief to the purchaser not
31 available under the express warranty, such as automatic
32 replacement of a product where the express warranty only provides
33 for repair.

34 (4) The contract shall be cancelable by the purchaser under the
35 following conditions:

36 (A) Unless the contract provides for a longer period, within the
37 first 60 days after receipt of the contract, or with respect to a
38 contract covering a used motor vehicle without manufacturer
39 warranties, a home appliance, or a home electronic product, within
40 the first 30 days after receipt of the contract, the full amount paid

1 shall be refunded by the seller to the purchaser if the purchaser
2 provides a written notice of cancellation to the person specified in
3 the contract, and if no claims have been made against the contract.
4 If a claim has been made against the contract either within the first
5 60 days after receipt of the contract, or with respect to a used motor
6 vehicle without manufacturer warranties, home appliance, or home
7 electronic product, within the first 30 days after receipt of the
8 contract, a pro rata refund, based on either elapsed time or an
9 objective measure of use, such as mileage or the retail value of
10 any service performed, at the seller's option, shall be made by the
11 seller to the purchaser if the purchaser provides a written notice
12 of cancellation to the person specified in the contract.

13 (B) Unless the contract provides for a longer period for obtaining
14 a full refund, after the first 60 days after receipt of the contract, or
15 with respect to a contract covering a used motor vehicle without
16 manufacturer warranties, a home appliance, or a home electronic
17 product, after the first 30 days after the receipt of the contract, a
18 pro rata refund, based on either elapsed time or an objective
19 measure of use, such as mileage or the retail value of any service
20 performed, at the seller's option, shall be made by the seller to the
21 purchaser if the purchaser provides a written notice of cancellation
22 to the person specified in the contract. In addition, the seller may
23 assess a cancellation or administrative fee, not to exceed 10 percent
24 of the price of the service contract or twenty-five dollars (\$25),
25 whichever is less.

26 (C) If the purchase of the service contract was financed, the
27 seller may make the refund payable to the purchaser, the assignee,
28 or lender of record, or both.

29 (b) Nothing in this section shall apply to a home protection plan
30 that is issued by a home protection company which is subject to
31 Part 7 (commencing with Section 12740) of Division 2 of the
32 Insurance Code.

33 (c) If any provision of this section conflicts with any provision
34 of Part 8 (commencing with Section 12800) of Division 2 of the
35 Insurance Code, the provision of the Insurance Code shall apply
36 instead of this section.

37 ~~SEC. 5.~~

38 *SEC. 7.* Section 116.5 of the Insurance Code is repealed.

1 ~~SEC. 6.~~

2 *SEC. 8.* Section 12800 of the Insurance Code is amended to
3 read:

4 12800. The following definitions apply for purposes of this
5 part:

6 (a) “Motor vehicle” means a self-propelled device operated
7 solely or primarily upon land and may include both self-propelled
8 motor homes or recreational vehicles, non-self-propelled camping
9 and recreational trailers, off-road vehicles, and trailers designed
10 to transport off-road vehicles. However, “motor vehicle” shall not
11 include a self-propelled vehicle, or a component part of such a
12 vehicle, that has any of the following characteristics:

13 (1) Has a gross vehicle weight rating of 30,000 pounds or more,
14 and is not a recreational vehicle as defined by Section 18010 of
15 the Health and Safety Code.

16 (2) Is designed to transport more than 15 passengers, including
17 the driver.

18 (3) Is used in the transportation of materials considered
19 hazardous pursuant to the Hazardous Materials Transportation Act
20 (49 U.S.C. Sec. 5101 et seq.), as amended.

21 (b) “Watercraft” means a vessel, as defined in Section 21 of the
22 Harbors and Navigation Code, and may include any
23 non-self-propelled trailer used to transport such watercraft upon
24 land.

25 (c) (1) “Vehicle service contract” means a contract or agreement
26 for a separately stated consideration and for a specific duration to
27 repair, replace, or maintain a motor vehicle or watercraft, or to
28 indemnify for the repair, replacement, or maintenance of a motor
29 vehicle or watercraft, necessitated by an operational or structural
30 failure due to a defect in materials or workmanship, or due to
31 normal wear and tear.

32 (2) A vehicle service contract may also provide for the incidental
33 payment of indemnity under limited circumstances only in the
34 form of the following additional benefits: coverage for towing,
35 substitute transportation, emergency road service, rental car
36 reimbursement, reimbursement of deductible amounts under a
37 manufacturer’s warranty, and reimbursement for travel, lodging,
38 or meals.

1 (3) “Vehicle service contract” also includes an agreement of a
2 term of at least one year, for separately stated consideration, that
3 promises routine maintenance.

4 (4) “Vehicle service contract” also includes an agreement,
5 provided with or without separate consideration, that promises to
6 repair, replace, or maintain a motor vehicle or watercraft, or to
7 indemnify for the repair, replacement, or maintenance of a motor
8 vehicle or watercraft, conditioned upon the use of a specific brand
9 or brands of lubricant, treatment, fluid, or additive.

10 (5) Notwithstanding Section 116, and paragraphs (1) and (2) of
11 this subdivision, a vehicle service contract also includes one or
12 more of the following:

13 (A) An agreement that promises the repair or replacement of a
14 tire or wheel necessitated by wear and tear, defect, or damage
15 caused by a road hazard. However, an agreement that promises
16 the repair or replacement of a tire necessitated by wear and tear,
17 defect, or damage caused by a road hazard, in which the obligor
18 is the tire manufacturer, is exempt from the requirements of this
19 part. A warranty provided by a tire or wheel distributor or retailer
20 is exempt from the requirements of this part as long as the warranty
21 covers only defects in the material or workmanship of the tire or
22 wheel.

23 (B) An agreement that promises the repair or replacement of
24 glass on a vehicle necessitated by wear and tear, defect, or damage
25 caused by a road hazard. However, a warranty provided by a
26 vehicle glass manufacturer is exempt from the requirements of
27 this part. A warranty provided by a vehicle glass distributor or
28 retailer is exempt from the requirements of this part as long as the
29 warranty covers only defects in the material or workmanship of
30 the vehicle glass.

31 (C) An agreement that promises the removal of a dent, ding, or
32 crease without affecting the existing paint finish using paintless
33 dent repair techniques, and which expressly excludes the
34 replacement of vehicle body panels, sanding, bonding, or painting.

35 (d) “Service contract administrator” or “administrator” means
36 any person, other than an obligor, who performs or arranges,
37 directly or indirectly, the collection, maintenance, or disbursement
38 of moneys to compensate any party for claims or repairs pursuant
39 to a vehicle service contract, and who also performs or arranges,
40 directly or indirectly, any of the following activities with respect

1 to vehicle service contracts in which a seller located within this
2 state is the obligor:

3 (1) Providing sellers with service contract forms.

4 (2) Participating in the adjustment of claims arising from service
5 contracts.

6 (e) “Purchaser” means any person who purchases a vehicle
7 service contract from a seller.

8 (f) “Seller” means either of the following:

9 (1) With respect to motor vehicles, a dealer or lessor-retailer
10 licensed in one of those capacities by the Department of Motor
11 Vehicles and who sells vehicle service contracts incidental to his
12 or her business of selling or leasing motor vehicles.

13 (2) With respect to watercraft, a person who sells vehicle service
14 contracts incidental to that person’s business of selling or leasing
15 watercraft vehicles.

16 (g) “Obligor” means the entity legally obligated under the terms
17 of a service contract.

18 ~~SEC. 7. Section 12830 of the Insurance Code is amended to~~
19 ~~read:~~

20 ~~12830. (a) Prior to incurring an obligation under a vehicle~~
21 ~~service contract, an obligor shall file with the commissioner, to~~
22 ~~the attention of the legal division, and receive the commissioner’s~~
23 ~~approval to use, a copy of an insurance policy covering 100 percent~~
24 ~~of the obligor’s vehicle service contract obligations. The policy~~
25 ~~must be issued by an insurer admitted in this state and authorized~~
26 ~~by the commissioner to issue that insurance in this state. The policy~~
27 ~~may also be issued by a risk retention group, as that term is defined~~
28 ~~in 15 U.S.C. Sec. 3901(a)(4), as long as that risk retention group~~
29 ~~is in full compliance with the federal Liability Risk Retention Act~~
30 ~~of 1986 (15 U.S.C. Sec. 3901 and following), is in good standing~~
31 ~~in its domiciliary jurisdiction, and has registered with the~~
32 ~~commissioner pursuant to Chapter 1.5 (commencing with Section~~
33 ~~125) of Part 1 of Division 1. The insurance required by this~~
34 ~~subdivision shall be subject to the following:~~

35 ~~(1) The insurer or risk retention group shall, at the time the~~
36 ~~policy is filed with the commissioner, and continuously thereafter,~~
37 ~~be rated “B+” or better by A. M. Best Company, Inc., maintain~~
38 ~~surplus as to policyholders and paid-in capital of at least fifteen~~
39 ~~million dollars (\$15,000,000), and annually file audited financial~~
40 ~~statements with the commissioner.~~

1 ~~(2) The commissioner may authorize an insurer or risk retention~~
2 ~~group that has surplus as to policyholders and paid-in capital of~~
3 ~~less than fifteen million dollars (\$15,000,000) but at least equal to~~
4 ~~ten million dollars (\$10,000,000) to issue the insurance required~~
5 ~~by this paragraph if the insurer or risk retention group demonstrates~~
6 ~~to the satisfaction of the commissioner that the company maintains~~
7 ~~a ratio of direct written premiums, wherever written, to surplus as~~
8 ~~to policyholders and paid-in capital of not more than 3 to 1.~~

9 ~~(3) An obligor required to maintain insurance pursuant to this~~
10 ~~paragraph who is an affiliate of a distributor of new motor vehicles~~
11 ~~licensed as such in any state prior to January 1, 2003, and~~
12 ~~continuously thereafter, is exempt from the requirement that its~~
13 ~~insurer or risk retention group satisfy the rating, surplus, and~~
14 ~~paid-in capital requirements of paragraph (1). This exemption shall~~
15 ~~apply only if the distributor sold or distributed at least 25,000 new~~
16 ~~motor vehicles to licensed dealers in the preceding five years. For~~
17 ~~the purpose of this paragraph, "affiliate" has the meaning set forth~~
18 ~~in subdivision (a) of Section 1215.~~

19 ~~(b) An insurance policy filed with the commissioner pursuant~~
20 ~~to subdivision (a) shall state the name of the obligor. The policy~~
21 ~~shall provide that all purchasers of vehicle service contracts shall~~
22 ~~be entitled to satisfaction by the insurer of any and all obligations~~
23 ~~arising under vehicle service contracts of the named obligor, upon~~
24 ~~the existence of all of the following conditions and no others:~~

25 ~~(1) The service contract obligor refuses or fails to satisfy an~~
26 ~~obligation arising under the vehicle service contract within 60 days~~
27 ~~of the date the purchaser submits proof of loss to the obligor.~~

28 ~~(2) The purchaser provides written notice to the insurer that the~~
29 ~~obligor has failed to comply with an obligation under the vehicle~~
30 ~~service contract.~~

31 ~~(3) The purchaser possesses a vehicle service contract sold after~~
32 ~~the inception and prior to any cancellation of the insurance policy~~
33 ~~required by subdivision (a), and the vehicle service contract recites~~
34 ~~the name of the obligor that is insured by the policy as the obligor~~
35 ~~of the service contract.~~

36 ~~(e) An insurer's liability under a policy filed pursuant to~~
37 ~~subdivision (a) shall not be negated by any failure of the seller, an~~
38 ~~administrator, the obligor, or agents of any of these persons, to~~
39 ~~report the issuance of a vehicle service contract or to remit moneys~~
40 ~~to another person pursuant to a contractual agreement. The policy~~

1 must state that the insurer is deemed to have received the premium
2 for the policy upon payment by the purchaser for a vehicle service
3 contract insured by that policy.

4 ~~(d) An obligor may have on file with the commissioner only
5 one active policy from one insurer at any time unless the obligor
6 files with the commissioner annually a report certified as accurate
7 by an officer or director of the obligor that lists each of its insured
8 vehicle service contract programs and the corresponding insurance
9 policy under which each program is insured.~~

10 ~~(e) No policy cancellation by an insurer shall be valid unless a
11 notice of the intent to cancel the policy was filed with the
12 commissioner 30 days prior to the effective date of the cancellation,
13 or 10 days prior in the event that the cancellation is due to fraud,
14 material misrepresentation, or defalcation by the obligor or its
15 administrator, if any.~~

16 ~~SEC. 8.~~

17 *SEC. 9.* No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district will be incurred because this act creates a new crime or
21 infraction, eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section 17556 of
23 the Government Code, or changes the definition of a crime within
24 the meaning of Section 6 of Article XIII B of the California
25 Constitution.