

AMENDED IN SENATE JUNE 19, 2014
AMENDED IN SENATE AUGUST 28, 2013
AMENDED IN SENATE AUGUST 27, 2013
AMENDED IN SENATE JULY 3, 2013
AMENDED IN SENATE JUNE 20, 2013
AMENDED IN ASSEMBLY MARCH 19, 2013
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 640

Introduced by Assembly Member Hall

February 20, 2013

~~An act to add Section 6720 to the Labor Code, relating to employment, and declaring the urgency thereof, to take effect immediately. An act to amend Section 69432.7 of the Education Code, relating to student financial aid.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 640, as amended, Hall. ~~Occupational safety and health: adult films.~~ *Cal Grant Program: renewal awards.*

The Cal Grant Program establishes the Cal Grant A and B Entitlement awards, the California Community College Transfer Entitlement awards, the Competitive Cal Grant A and B awards, the Cal Grant C awards, and the Cal Grant T awards under the administration of the Student Aid Commission, and establishes eligibility requirements for awards under these programs for participating students attending qualifying institutions.

Existing law requires the commission to certify by October 1 of each year a qualifying institution's latest 3-year cohort default rate and graduation rate as most recently reported by the United States Department of Education. Existing law provides that, for purposes of the 2012–13 academic year, and every academic year thereafter, an otherwise qualifying institution with a 3-year cohort default rate that is equal to or greater than 15.5% is ineligible for initial and renewal Cal Grant awards at the institution. Existing law provides that an otherwise qualifying institution is ineligible for an initial or renewal Cal Grant award at the institution if the institution has a graduation rate of 30% or less for students taking 150% or less of the expected time to complete degree requirements, as specified, with certain exceptions.

This bill would require the commission to establish an appeal process for an otherwise qualifying institution that fails to satisfy the 3-year cohort default rate and graduation rate requirements, and would make nonsubstantive and conforming changes.

~~The California Occupational Safety and Health Act of 1973 establishes certain safety and other responsibilities of employers and employees. Violations of the act under certain circumstances are a crime.~~

~~This bill would require an employer engaged in the production of an adult film to adopt prescribed practices and procedures to protect employees from exposure to, and infection by, sexually transmitted diseases, including engineering and work practice controls, an exposure control plan, hepatitis B vaccinations, medical monitoring, and information and training on health and safety. The bill would define terms for those purposes. Because a violation of the act would be a crime under certain circumstances, the bill would impose a state-mandated local program by creating a new crime.~~

~~This bill would provide that its provisions are severable.~~

~~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.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: *yes-no*.

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

1 SECTION 1. Section 69432.7 of the Education Code is amended
2 to read:

3 69432.7. As used in this chapter, the following terms have the
4 following meanings:

5 (a) An “academic year” is July 1 to June 30, inclusive. The
6 starting date of a session shall determine the academic year in
7 which it is included.

8 (b) “Access costs” means living expenses and expenses for
9 transportation, supplies, and books.

10 (c) “Award year” means one academic year, or the equivalent,
11 of attendance at a qualifying institution.

12 (d) “College grade point average” and “community college
13 grade point average” mean a grade point average calculated on the
14 basis of all college work completed, except for nontransferable
15 units and courses not counted in the computation for admission to
16 a California public institution of higher education that grants a
17 baccalaureate degree.

18 (e) “Commission” means the Student Aid Commission.

19 (f) “Enrollment status” means part- or full-time status.

20 (1) “Part time,” for purposes of Cal Grant eligibility, means 6
21 to 11 semester units, inclusive, or the equivalent.

22 (2) “Full time,” for purposes of Cal Grant eligibility, means 12
23 or more semester units or the equivalent.

24 (g) “Expected family contribution,” with respect to an applicant,
25 shall be determined using the federal methodology pursuant to
26 subdivision (a) of Section 69506 (as established by Title IV of the
27 federal Higher Education Act of 1965, as amended (20 U.S.C. Sec.
28 1070 et seq.)) and applicable rules and regulations adopted by the
29 commission.

30 (h) “High school grade point average” means a grade point
31 average calculated on a 4.0 scale, using all academic coursework,
32 for the sophomore year, the summer following the sophomore
33 year, the junior year, and the summer following the junior year,
34 excluding physical education, reserve officer training corps
35 (ROTC), and remedial courses, and computed pursuant to
36 regulations of the commission. However, for high school graduates
37 who apply after their senior year, “high school grade point average”
38 includes senior year coursework.

(i) “Instructional program of not less than one academic year” means a program of study that results in the award of an associate or baccalaureate degree or certificate requiring at least 24 semester units or the equivalent, or that results in eligibility for transfer from a community college to a baccalaureate degree program.

(j) “Instructional program of not less than two academic years” means a program of study that results in the award of an associate or baccalaureate degree requiring at least 48 semester units or the equivalent, or that results in eligibility for transfer from a community college to a baccalaureate degree program.

(k) “Maximum household income and asset levels” means the applicable household income and household asset levels for participants, including new applicants and renewing recipients, in the Cal Grant Program, as defined and adopted in regulations by the commission for the 2001–02 academic year, which shall be set pursuant to the following income and asset ceiling amounts:

CAL GRANT PROGRAM INCOME CEILINGS

	Cal Grant A, C, and T	Cal Grant B
Dependent and Independent students with dependents*		
Family Size		
Six or more	\$74,100	\$40,700
Five	\$68,700	\$37,700
Four	\$64,100	\$33,700
Three	\$59,000	\$30,300
Two	\$57,600	\$26,900
Independent		
Single, no dependents	\$23,500	\$23,500
Married	\$26,900	\$26,900

*Applies to independent students with dependents other than a spouse.

CAL GRANT PROGRAM ASSET CEILINGS

	Cal Grant A, C, and T	Cal Grant B
Dependent**	\$49,600	\$49,600
Independent	\$23,600	\$23,600

**Applies to independent students with dependents other than a spouse.

The commission shall annually adjust the maximum household income and asset levels based on the percentage change in the cost of living within the meaning of paragraph (1) of subdivision (e) of Section 8 of Article XIII B of the California Constitution. The maximum household income and asset levels applicable to a renewing recipient shall be the greater of the adjusted maximum household income and asset levels or the maximum household income and asset levels at the time of the renewing recipient's initial Cal Grant award. For a recipient who was initially awarded a Cal Grant for an academic year before the 2011–12 academic year, the maximum household income and asset levels shall be the greater of the adjusted maximum household income and asset levels or the 2010–11 academic year maximum household income and asset levels. An applicant or renewal recipient who qualifies to be considered under the simplified needs test established by federal law for student assistance shall be presumed to meet the asset level test under this section. Prior to disbursing any Cal Grant funds, a qualifying institution shall be obligated, under the terms of its institutional participation agreement with the commission, to resolve any conflicts that may exist in the data the institution possesses relating to that individual.

(l) (1) "Qualifying institution" means an institution that complies with paragraphs (2) and (3) and is any of the following:

(A) A California private or independent postsecondary educational institution that participates in the *federal* Pell Grant Program and in at least two of the following federal campus-based student aid programs:

- (i) Federal Work-Study.
- (ii) Perkins Loan Program.

1 (iii) *Federal Supplemental Educational Opportunity Grant*
 2 *Program.*

3 (B) A nonprofit institution headquartered and operating in
 4 California that certifies to the commission that 10 percent of the
 5 institution’s operating budget, as demonstrated in an audited
 6 financial statement, is expended for purposes of institutionally
 7 funded student financial aid in the form of grants, that demonstrates
 8 to the commission that it has the administrative capacity to
 9 administer the funds, that is accredited by the Western Association
 10 of Schools and Colleges, and that meets any other state-required
 11 criteria adopted by regulation by the commission in consultation
 12 with the Department of Finance. A regionally accredited institution
 13 that was deemed qualified by the commission to participate in the
 14 Cal Grant Program for the 2000–01 academic year shall retain its
 15 eligibility as long as it maintains its existing accreditation status.

16 (C) A California public postsecondary educational institution.

17 (2) (A) The institution shall provide information on where to
 18 access California license examination passage rates for the most
 19 recent available year from graduates of its undergraduate programs
 20 leading to employment for which passage of a California licensing
 21 examination is required, if that data is electronically available
 22 through the Internet Web site of a California licensing or regulatory
 23 agency. For purposes of this paragraph, “provide” may exclusively
 24 include placement of an Internet Web site address labeled as an
 25 access point for the data on the passage rates of recent program
 26 graduates on the Internet Web site where enrollment information
 27 is also located, on an Internet Web site that provides centralized
 28 admissions information for postsecondary educational systems
 29 with multiple campuses, or on applications for enrollment or other
 30 program information distributed to prospective students.

31 (B) The institution shall be responsible for certifying to the
 32 commission compliance with the requirements of subparagraph
 33 (A).

34 (3) (A) The commission shall certify by October 1 of each year
 35 the institution’s latest three-year cohort default rate and graduation
 36 rate as most recently reported by the United States Department of
 37 Education.

38 (B) For purposes of the 2011–12 academic year, an otherwise
 39 qualifying institution with a three-year cohort default rate reported
 40 by the United States Department of Education that is equal to or

1 greater than 24.6 percent shall be ineligible for initial and renewal
2 Cal Grant awards at the institution, except as provided in
3 subparagraph (F). *institution.*

4 (C) For purposes of the 2012–13 academic year, and every
5 academic year thereafter, an otherwise qualifying institution with
6 a three-year cohort default rate that is equal to or greater than 15.5
7 percent, as certified by the commission on October 1, 2011, and
8 every year thereafter, shall be ineligible for initial and renewal Cal
9 Grant awards at the institution, except as provided in subparagraph
10 (F). *institution.*

11 (D) (i) An otherwise qualifying institution that becomes
12 ineligible under this paragraph for initial and renewal Cal Grant
13 awards shall regain its eligibility for the academic year for which
14 it satisfies the requirements established in subparagraph (B), (C),
15 or (G) (F), as applicable.

16 (ii) If the United States Department of Education corrects or
17 revises an institution’s three-year cohort default rate or graduation
18 rate that originally failed to satisfy the requirements established
19 in subparagraph (B), (C), or (G) (F), as applicable, and the
20 correction or revision results in the institution’s three-year cohort
21 default rate or graduation rate satisfying those requirements, that
22 institution shall immediately regain its eligibility for the academic
23 year to which the corrected or revised three-year cohort default
24 rate or graduation rate would have been applied.

25 (E) An otherwise qualifying institution for which no three-year
26 cohort default rate or graduation rate has been reported by the
27 United States Department of Education shall be provisionally
28 eligible to participate in the Cal Grant Program until a three-year
29 cohort default rate or graduation rate has been reported for the
30 institution by the United States Department of Education.

31 (F) (i) ~~An institution that is ineligible for initial and renewal~~
32 ~~Cal Grant awards at the institution under subparagraph (B), (C),~~
33 ~~or (G) shall be eligible for renewal Cal Grant awards for recipients~~
34 ~~who were enrolled in the ineligible institution during the academic~~
35 ~~year before the academic year for which the institution is ineligible~~
36 ~~and who choose to renew their Cal Grant awards to attend the~~
37 ~~ineligible institution. Cal Grant awards subject to this subparagraph~~
38 ~~shall be reduced as follows:~~

39 (I) ~~The maximum Cal Grant A and B awards specified in the~~
40 ~~annual Budget Act shall be reduced by 20 percent.~~

1 ~~(H) The reductions specified in this subparagraph shall not~~
2 ~~impact access costs as specified in subdivision (b) of Section~~
3 ~~69435.~~

4 ~~(ii) This subparagraph shall become inoperative on July 1, 2013.~~

5 ~~(G)~~

6 (F) For purposes of the 2012–13 academic year, and every
7 academic year thereafter, an otherwise qualifying institution with
8 a graduation rate of 30 percent or less for students taking 150
9 percent or less of the expected time to complete degree
10 requirements, as reported by the United States Department of
11 Education and as certified by the commission pursuant to
12 subparagraph (A), shall be ineligible for initial and renewal Cal
13 Grant awards at the institution, except as provided for in
14 ~~subparagraphs (F) and (I):~~ *subparagraph (H).*

15 ~~(H)~~

16 (G) Notwithstanding any other law, the requirements of this
17 paragraph shall not apply to institutions with 40 percent or less of
18 undergraduate students borrowing federal student loans, using
19 information reported to the United States Department of Education
20 for the academic year two years before the year in which the
21 commission is certifying the three-year cohort default rate or
22 graduation rate pursuant to subparagraph (A).

23 ~~(I)~~

24 (H) Notwithstanding subparagraph ~~(G)~~, (F), an otherwise
25 qualifying institution with a three-year cohort default rate that is
26 less than 10 percent and a graduation rate above 20 percent for
27 students taking 150 percent or less of the expected time to complete
28 degree requirements, as certified by the commission pursuant to
29 subparagraph (A), shall remain eligible for initial and renewal Cal
30 Grant awards at the institution through the 2016–17 academic year.

31 ~~(J)~~

32 (I) The commission shall do all of the following:

33 (i) Notify initial Cal Grant recipients seeking to attend, or
34 attending, an institution that is ineligible for initial and renewal
35 Cal Grant awards under subparagraph (C) or ~~(G)~~ (F) that the
36 institution is ineligible for initial Cal Grant awards for the academic
37 year for which the student received an initial Cal Grant award.

38 (ii) Notify renewal Cal Grant recipients attending an institution
39 that is ineligible for initial and renewal Cal Grant awards at the
40 institution under subparagraph (C) or ~~(G)~~ (F) that the student's

1 Cal Grant award will be reduced by 20 percent, or eliminated, as
2 appropriate, if the student attends the ineligible institution in an
3 academic year in which the institution is ineligible.

4 (iii) Provide initial and renewal Cal Grant recipients seeking to
5 attend, or attending, an institution that is ineligible for initial and
6 renewal Cal Grant awards at the institution under subparagraph
7 (C) or ~~(G)~~ (F) with a complete list of all California postsecondary
8 educational institutions at which the student would be eligible to
9 receive an unreduced Cal Grant award.

10 (iv) (I) *Establish an appeal process for an otherwise qualifying*
11 *institution that fails to satisfy the three-year cohort default rate*
12 *and graduation rate requirements in subparagraphs (C) and (F),*
13 *respectively.*

14 (II) *In assessing whether to grant an appeal, the commission*
15 *may consider cohort size and the likelihood of an otherwise*
16 *qualifying institution regaining eligibility in the academic year*
17 *next following the institution’s loss of eligibility.*

18 ~~(K)~~

19 (J) By January 1, 2013, the Legislative Analyst shall submit to
20 the Legislature a report on the implementation of this paragraph.
21 The report shall be prepared in consultation with the commission,
22 and shall include policy recommendations for appropriate measures
23 of default risk and other direct or indirect measures of quality or
24 effectiveness in educational institutions participating in the Cal
25 Grant Program, and appropriate scores for those measures. It is
26 the intent of the Legislature that appropriate policy and fiscal
27 committees review the requirements of this paragraph and consider
28 changes thereto.

29 (m) “Satisfactory academic progress” means those criteria
30 required by applicable federal standards published in Title 34 of
31 the Code of Federal Regulations. The commission may adopt
32 regulations defining “satisfactory academic progress” in a manner
33 that is consistent with those federal standards.

34 SECTION 1. Section 6720 is added to the Labor Code, to read:

35 6720. (a) ~~The Legislature finds and declares that the protection~~
36 ~~of workers in the adult film industry is the responsibility of multiple~~
37 ~~layers of government, with the department being responsible for~~
38 ~~worker safety and the county being responsible for protecting the~~
39 ~~public health. Therefore, this section shall not be construed to~~
40 ~~prohibit a city, county, or city and county from implementing a~~

1 ~~local ordinance regulating the adult film industry, provided that~~
2 ~~nothing in the local ordinance contradicts any provision of this~~
3 ~~section.~~

4 (b) ~~For purposes of this section, the following definitions shall~~
5 ~~apply:~~

6 (1) ~~“Adult film” means any commercial film, video, multimedia,~~
7 ~~or other recorded representation during the production of which~~
8 ~~performers actually engage in sexual intercourse, including oral,~~
9 ~~vaginal, or anal penetration.~~

10 (2) ~~“Employee” means a person who is an employee or~~
11 ~~independent contractor, regardless of whether the person is shown~~
12 ~~in the adult film, who, during the production of the adult film,~~
13 ~~performs sexual intercourse, including oral, vaginal, or anal~~
14 ~~penetration.~~

15 (3) ~~“Employer” means a company, partnership, corporation, or~~
16 ~~individual engaged in the production of an adult film. There shall~~
17 ~~be a rebuttable presumption that the name on the material for~~
18 ~~commercial distribution is the employer unless there is evidence~~
19 ~~to the contrary as demonstrated through contractual or employment~~
20 ~~records.~~

21 (4) ~~“Sexually transmitted disease” or “STD” means any infection~~
22 ~~commonly spread by sexual conduct, including, but not limited~~
23 ~~to, HIV/AIDS, gonorrhea, syphilis, chlamydia, hepatitis, genital~~
24 ~~human papillomavirus infection, and genital herpes.~~

25 (e) ~~An employer shall maintain engineering and work practice~~
26 ~~controls sufficient to protect employees from exposure to blood~~
27 ~~and any potentially infectious materials, in accordance with Section~~
28 ~~5193 of Title 8 of the California Code of Regulations. Engineering~~
29 ~~and work practice controls shall include, but are not limited to, the~~
30 ~~following:~~

31 (1) ~~Simulation of sex acts using acting, production, and~~
32 ~~postproduction techniques.~~

33 (2) ~~Provision of and required use of condoms and other~~
34 ~~protective barriers whenever acts of vaginal or anal intercourse~~
35 ~~are filmed.~~

36 (3) ~~The provision of condom-safe water-based or silicone-based~~
37 ~~lubricants to facilitate the use of condoms.~~

38 (4) ~~Plastic and other disposable materials to clean up sets.~~

39 (5) ~~Sharps containers for disposal of contaminated sharps,~~
40 ~~including, but not limited to, any blades, wires, or broken glass.~~

- 1 ~~(d) An employer shall maintain an exposure control plan in~~
2 ~~accordance with Section 5193 of Title 8 of the California Code of~~
3 ~~Regulations. An employer shall not be required to comply with~~
4 ~~any provision related to establishing and maintaining a sharps~~
5 ~~injury log, or any provision regarding regulated waste.~~
6 ~~(e) An employer shall make available the hepatitis B vaccination~~
7 ~~and all medical followup required by Section 5193 of Title 8 of~~
8 ~~the California Code of Regulations, for any employee engaged in~~
9 ~~the production of adult films, at the employer's expense.~~
10 ~~(f) An employer shall designate a custodian of records for~~
11 ~~purposes of this section. A copy of the original production shall~~
12 ~~be retained by the custodian of records.~~
13 ~~(g) An employer shall pay the costs of required medical~~
14 ~~monitoring, such as STD testing, and keep confidential employee~~
15 ~~records.~~
16 ~~(h) (1) An employer shall adopt, implement, maintain, and~~
17 ~~update, as required, a written health and safety program that meets~~
18 ~~the requirements of the Injury and Illness Prevention Program and~~
19 ~~the bloodborne pathogens standard, described, respectively, in~~
20 ~~Sections 3203 and 5193 of Title 8 of the California Code of~~
21 ~~Regulations.~~
22 ~~(2) An employer shall provide a training program in accordance~~
23 ~~with Section 5193 of Title 8 of the California Code of Regulations.~~
24 ~~The training requirements of this subdivision may be satisfied by~~
25 ~~proof that the employee has received appropriate training at another~~
26 ~~workplace or from an appropriate third party approved by the~~
27 ~~department in the prior 12 months.~~
28 ~~(i) This section shall not be construed to require condoms,~~
29 ~~barriers, or other personal protective equipment to be visible in~~
30 ~~the final product of an adult film.~~
31 ~~(j) The Legislature finds and declares that screening for STDs~~
32 ~~is a critical public health measure and should be employed~~
33 ~~wherever possible, including the adult film industry. Therefore,~~
34 ~~this section shall not be construed to impede or replace STD~~
35 ~~screening of all employees, as defined in paragraph (2) of~~
36 ~~subdivision (b), pursuant to STD screening protocols established~~
37 ~~by the federal Centers for Disease Control and Prevention, the~~
38 ~~State Department of Public Health, and the public health~~
39 ~~department in the county where the filming occurs.~~

1 ~~SEC. 2.—The provisions of this act are severable. If any provision~~
2 ~~of this act or its application is held invalid, that invalidity shall not~~
3 ~~affect other provisions or applications that can be given effect~~
4 ~~without the invalid provision or application.~~

5 ~~SEC. 3—No reimbursement is required by this act pursuant to~~
6 ~~Section 6 of Article XIII B of the California Constitution because~~
7 ~~the only costs that may be incurred by a local agency or school~~
8 ~~district will be incurred because this act creates a new crime or~~
9 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
10 ~~for a crime or infraction, within the meaning of Section 17556 of~~
11 ~~the Government Code, or changes the definition of a crime within~~
12 ~~the meaning of Section 6 of Article XIII B of the California~~
13 ~~Constitution.~~

14 ~~SEC. 4.—This act is an urgency statute necessary for the~~
15 ~~immediate preservation of the public peace, health, or safety within~~
16 ~~the meaning of Article IV of the Constitution and shall go into~~
17 ~~immediate effect. The facts constituting the necessity are:~~

18 ~~In order to protect workers in the adult film industry from an~~
19 ~~imminent threat to public health as soon as possible, it is necessary~~
20 ~~that this act take effect immediately.~~