

AMENDED IN ASSEMBLY APRIL 6, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2895**

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**Introduced by Committee on Labor and Employment (Assembly Members Roger Hernández (Chair), Chu, Low, McCarty, and Thurmond)**

March 1, 2016

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An act to amend, repeal, and add Section 6401.7 of the Labor Code, relating to employment safety.

LEGISLATIVE COUNSEL'S DIGEST

AB 2895, as amended, Committee on Labor and Employment. Employee safety: injury prevention programs.

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.

The act requires every employer to establish, implement, and maintain an effective injury prevention program. The act requires the program to be written, except as specified, and to include certain elements. The act requires the employer to identify a person responsible for implementing the program and to correct unsafe and unhealthy conditions and work practices in a timely manner based on the severity of the hazard.

This bill would, commencing July 1, 2017, require an employer to keep a complete, updated copy of ~~specified records relating to the written~~ injury prevention program at each worksite and to make ~~them, or a summary thereof, it~~ available to any employee upon oral request. The bill would also require an employer to provide a copy of the ~~records, written injury prevention program, or a summary thereof, to each~~

employee and each new hire, as specified. ~~The bill would make a violation of certain of these provisions an infraction and would impose civil penalties for certain violations.~~

*The bill also would require an employer who receives a written request for a copy of the written injury prevention program from a current employee, or his or her authorized representative, to comply within 5 business days and to provide the copy at no cost. The bill would make a violation of this requirement an infraction and would impose a civil penalty for failure by an employer to comply with this requirement.*

~~Because a violation of these provisions would be a crime under certain circumstances, this bill creates a new crime,~~ the bill would impose a state-mandated local program.

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 6401.7 of the Labor Code is amended to
- 2 read:
- 3 6401.7. (a) Every employer shall establish, implement, and
- 4 maintain an effective injury prevention program. The program
- 5 shall be written, except as provided in subdivision (e), and shall
- 6 include, but not be limited to, the following elements:
- 7 (1) Identification of the person or persons responsible for
- 8 implementing the program.
- 9 (2) The employer's system for identifying and evaluating
- 10 workplace hazards, including scheduled periodic inspections to
- 11 identify unsafe conditions and work practices.
- 12 (3) The employer's methods and procedures for correcting
- 13 unsafe or unhealthy conditions and work practices in a timely
- 14 manner.
- 15 (4) An occupational health and safety training program designed
- 16 to instruct employees in general safe and healthy work practices

1 and to provide specific instruction with respect to hazards specific  
2 to each employee's job assignment.

3 (5) The employer's system for communicating with employees  
4 on occupational health and safety matters, including provisions  
5 designed to encourage employees to inform the employer of  
6 hazards at the worksite without fear of reprisal.

7 (6) The employer's system for ensuring that employees comply  
8 with safe and healthy work practices, which may include  
9 disciplinary action.

10 (b) The employer shall correct unsafe and unhealthy conditions  
11 and work practices in a timely manner based on the severity of the  
12 hazard.

13 (c) The employer shall train all employees when the training  
14 program is first established, all new employees, and all employees  
15 given a new job assignment, and shall train employees whenever  
16 new substances, processes, procedures, or equipment are introduced  
17 to the workplace and represent a new hazard, and whenever the  
18 employer receives notification of a new or previously unrecognized  
19 hazard. An employer in the construction industry who is required  
20 to be licensed under Chapter 9 (commencing with Section 7000)  
21 of Division 3 of the Business and Professions Code may use  
22 employee training provided to the employer's employees under a  
23 construction industry occupational safety and health training  
24 program approved by the division to comply with the requirements  
25 of subdivision (a) relating to employee training, and shall only be  
26 required to provide training on hazards specific to an employee's  
27 job duties.

28 (d) The employer shall keep appropriate records of steps taken  
29 to implement and maintain the program. An employer in the  
30 construction industry who is required to be licensed under Chapter  
31 9 (commencing with Section 7000) of Division 3 of the Business  
32 and Professions Code may use records relating to employee training  
33 provided to the employer in connection with an occupational safety  
34 and health training program approved by the division to comply  
35 with this subdivision, and shall only be required to keep records  
36 of those steps taken to implement and maintain the program with  
37 respect to hazards specific to an employee's job duties.

38 (e) (1) The standards board shall adopt a standard setting forth  
39 the employer's duties under this section, on or before January 1,  
40 1991, consistent with the requirements specified in subdivisions

1 (a), (b), (c), and (d). The standards board, in adopting the standard,  
2 shall include substantial compliance criteria for use in evaluating  
3 an employer's injury prevention program. The board may adopt  
4 less stringent criteria for employers with few employees and for  
5 employers in industries with insignificant occupational safety or  
6 health hazards.

7 (2) Notwithstanding subdivision (a), for employers with fewer  
8 than 20 employees who are in industries that are not on a  
9 designated list of high hazard industries and who have a workers'  
10 compensation experience modification rate of 1.1 or less, and for  
11 any employers with fewer than 20 employees who are in industries  
12 that are on a designated list of low hazard industries, the board  
13 shall adopt a standard setting forth the employer's duties under  
14 this section consistent with the requirements specified in  
15 subdivisions (a), (b), and (c), except that the standard shall only  
16 require written documentation to the extent of documenting the  
17 person or persons responsible for implementing the program  
18 pursuant to paragraph (1) of subdivision (a), keeping a record of  
19 periodic inspections pursuant to paragraph (2) of subdivision (a),  
20 and keeping a record of employee training pursuant to paragraph  
21 (4) of subdivision (a). To any extent beyond the specifications of  
22 this subdivision, the standard shall not require the employer to  
23 keep the records specified in subdivision (d).

24 (3) (A) The division shall establish a list of high hazard  
25 industries using the methods prescribed in Section 6314.1 for  
26 identifying and targeting employers in high hazard industries. For  
27 purposes of this subdivision, the "designated list of high hazard  
28 industries" shall be the list established pursuant to this paragraph.

29 (B) For the purpose of implementing this subdivision, the  
30 Department of Industrial Relations shall periodically review, and  
31 as necessary revise, the list.

32 (4) For the purpose of implementing this subdivision, the  
33 Department of Industrial Relations shall also establish a list of low  
34 hazard industries, and shall periodically review, and as necessary  
35 revise, that list.

36 (f) The standard adopted pursuant to subdivision (e) shall  
37 specifically permit employer and employee occupational safety  
38 and health committees to be included in the employer's injury  
39 prevention program. The board shall establish criteria for use in  
40 evaluating employer and employee occupational safety and health

1 committees. The criteria shall include minimum duties, including  
2 the following:

3 (1) Review of the employer's periodic, scheduled worksite  
4 inspections; investigation of causes of incidents resulting in injury,  
5 illness, or exposure to hazardous substances; and investigation of  
6 any alleged hazardous condition brought to the attention of any  
7 committee member. When determined necessary by the committee,  
8 the committee may conduct its own inspections and investigations.

9 (2) (A) Upon request from the division, verification of  
10 abatement action taken by the employer as specified in division  
11 citations.

12 (B) If an employer's occupational safety and health committee  
13 meets the criteria established by the board, it shall be presumed to  
14 be in substantial compliance with paragraph (5) of subdivision (a).

15 (g) The division shall adopt regulations specifying the  
16 procedures for selecting employee representatives for  
17 employer-employee occupational health and safety committees  
18 when these procedures are not specified in an applicable collective  
19 bargaining agreement. No employee or employee organization  
20 shall be held liable for any act or omission in connection with a  
21 health and safety committee.

22 (h) The employer's injury prevention program, as required by  
23 this section, shall cover all of the employer's employees and all  
24 other workers who the employer controls or directs and directly  
25 supervises on the job to the extent these workers are exposed to  
26 worksite and job assignment specific hazards. Nothing in this  
27 subdivision shall affect the obligations of a contractor or other  
28 employer that controls or directs and directly supervises its own  
29 employees on the job.

30 (i) When a contractor supplies its employee to a state agency  
31 employer on a temporary basis, the state agency employer may  
32 assess a fee upon the contractor to reimburse the state agency for  
33 the additional costs, if any, of including the contract employee  
34 within the state agency's injury prevention program.

35 (j) (1) The division shall prepare a Model Injury and Illness  
36 Prevention Program for Non-High-Hazard Employment, and shall  
37 make copies of the model program prepared pursuant to this  
38 subdivision available to employers, upon request, for posting in  
39 the workplace. An employer who adopts and implements the model  
40 program prepared by the division pursuant to this paragraph in

1 good faith shall not be assessed a civil penalty for the first citation  
2 for a violation of this section issued after the employer's adoption  
3 and implementation of the model program.

4 (2) For purposes of this subdivision, the division shall establish  
5 a list of non-high-hazard industries in California. These industries,  
6 identified by their Standard Industrial Classification Codes, as  
7 published by the United States Office of Management and Budget  
8 in the Manual of Standard Industrial Classification Codes, 1987  
9 Edition, are apparel and accessory stores (Code 56), eating and  
10 drinking places (Code 58), miscellaneous retail (Code 59), finance,  
11 insurance, and real estate (Codes 60–67), personal services (Code  
12 72), business services (Code 73), motion pictures (Code 78) except  
13 motion picture production and allied services (Code 781), legal  
14 services (Code 81), educational services (Code 82), social services  
15 (Code 83), museums, art galleries, and botanical and zoological  
16 gardens (Code 84), membership organizations (Code 86),  
17 engineering, accounting, research, management, and related  
18 services (Code 87), private households (Code 88), and  
19 miscellaneous services (Code 89). To further identify industries  
20 that may be included on the list, the division shall also consider  
21 data from a rating organization, as defined in Section 11750.1 of  
22 the Insurance Code, and all other appropriate information. The list  
23 shall be established by June 30, 1994, and shall be reviewed, and  
24 as necessary revised, biennially.

25 (3) The division shall prepare a Model Injury and Illness  
26 Prevention Program for Employers in Industries with Intermittent  
27 Employment, and shall determine which industries have historically  
28 utilized seasonal or intermittent employees. An employer in an  
29 industry determined by the division to have historically utilized  
30 seasonal or intermittent employees shall be deemed to have  
31 complied with the requirements of subdivision (a) with respect to  
32 a written injury prevention program if the employer adopts the  
33 model program prepared by the division pursuant to this paragraph  
34 and complies with any instructions relating thereto.

35 (k) With respect to any county, city, city and county, or district,  
36 or any public or quasi-public corporation or public agency therein,  
37 including any public entity, other than a state agency, that is a  
38 member of, or created by, a joint powers agreement, subdivision  
39 (d) shall not apply.

1 (l) Every workers' compensation insurer shall conduct a review,  
2 including a written report as specified below, of the injury and  
3 illness prevention program (IIPP) of each of its insureds with an  
4 experience modification of 2.0 or greater within six months of the  
5 commencement of the initial insurance policy term. The review  
6 shall determine whether the insured has implemented all of the  
7 required components of the IIPP, and evaluate their effectiveness.  
8 The training component of the IIPP shall be evaluated to determine  
9 whether training is provided to line employees, supervisors, and  
10 upper level management, and effectively imparts the information  
11 and skills each of these groups needs to ensure that all of the  
12 insured's specific health and safety issues are fully addressed by  
13 the insured. The reviewer shall prepare a detailed written report  
14 specifying the findings of the review and all recommended changes  
15 deemed necessary to make the IIPP effective. The reviewer shall  
16 be or work under the direction of a licensed California professional  
17 engineer, certified safety professional, or a certified industrial  
18 hygienist.

19 (m) This section shall remain in effect only until July 1, 2017,  
20 and as of that date is repealed.

21 SEC. 2. Section 6401.7 is added to the Labor Code, to read:

22 6401.7. (a) Every employer shall establish, implement, and  
23 maintain an effective injury prevention program. The program  
24 shall be written, except as provided in subdivision (f), and shall  
25 include, but not be limited to, the following elements:

26 (1) Identification of the person or persons responsible for  
27 implementing the program.

28 (2) The employer's system for identifying and evaluating  
29 workplace hazards, including scheduled periodic inspections to  
30 identify unsafe conditions and work practices.

31 (3) The employer's methods and procedures for correcting  
32 unsafe or unhealthy conditions and work practices in a timely  
33 manner.

34 (4) An occupational health and safety training program designed  
35 to instruct employees in general safe and healthy work practices  
36 and to provide specific instruction with respect to hazards specific  
37 to each employee's job assignment.

38 (5) The employer's system for communicating with employees  
39 on occupational health and safety matters, including provisions

1 designed to encourage employees to inform the employer of  
2 hazards at the worksite without fear of reprisal.

3 (6) The employer's system for ensuring that employees comply  
4 with safe and healthy work practices, which may include  
5 disciplinary action.

6 (b) The employer shall correct unsafe and unhealthy conditions  
7 and work practices in a timely manner based on the severity of the  
8 hazard.

9 (c) The employer shall train all employees when the training  
10 program is first established, all new employees, and all employees  
11 given a new job assignment, and shall train employees whenever  
12 new substances, processes, procedures, or equipment are introduced  
13 to the workplace and represent a new hazard, and whenever the  
14 employer receives notification of a new or previously unrecognized  
15 hazard. An employer in the construction industry who is required  
16 to be licensed under Chapter 9 (commencing with Section 7000)  
17 of Division 3 of the Business and Professions Code may use  
18 employee training provided to the employer's employees under a  
19 construction industry occupational safety and health training  
20 program approved by the division to comply with the requirements  
21 of subdivision (a) relating to employee training, and shall only be  
22 required to provide training on hazards specific to an employee's  
23 job duties.

24 (d) The employer shall keep appropriate records of steps taken  
25 to implement and maintain the program. An employer in the  
26 construction industry who is required to be licensed under Chapter  
27 9 (commencing with Section 7000) of Division 3 of the Business  
28 and Professions Code may use records relating to employee training  
29 provided to the employer in connection with an occupational safety  
30 and health training program approved by the division to comply  
31 with this subdivision, and shall only be required to keep records  
32 of those steps taken to implement and maintain the program with  
33 respect to hazards specific to an employee's job duties.

34 (e) (1) An employer shall keep an up-to-date complete copy of  
35 the ~~records~~ *written injury prevention program* referred to in  
36 subdivision (a) at each worksite, and shall make it available for  
37 inspection by any current employee or by the division upon an  
38 oral request. The worksite copy shall be in English, and, if the  
39 language spoken by the majority of the employees at the worksite



1 is not English, the worksite copy shall also be in the language  
2 spoken by the majority of the employees at the worksite.

3 (2) Upon the operative date of this section, an employer shall  
4 provide a complete copy of the ~~records~~ *written injury prevention*  
5 *program* referred to in subdivision (a) to each current employee,  
6 and, after the operative date of this section, an employer shall  
7 provide a complete copy of ~~those records~~ *the written injury*  
8 *prevention program* to each new employee at the time of hire. The  
9 copy of the ~~records~~ *written injury prevention program* shall be in  
10 English or, if the language spoken by the majority of the employees  
11 at the worksite is not English, an employee who requests a copy  
12 of the ~~records~~ *written injury prevention program* shall be provided  
13 with a copy in the language spoken by the majority of the  
14 employees at the worksite. If the ~~records~~ *written injury prevention*  
15 *program* referred to in subdivision (a) ~~exceed~~ *exceeds* a total of  
16 50 pages, the employer, in lieu of providing a copy as required  
17 under this paragraph, shall provide a complete summary that  
18 addresses the requirements referred to in subdivision (a), which  
19 shall be in English or, if the language spoken by the majority of  
20 the employees at the worksite is not English, an employee who  
21 requests a copy of the ~~records~~ *written injury prevention program*  
22 shall be provided with a summary that is in the language spoken  
23 by the majority of the employees at the worksite.

24 (3) An employer who receives a written request for a complete  
25 copy of the ~~records~~ *written injury prevention program* referred to  
26 in subdivision (a) from a current employee, or his or her authorized  
27 representative, shall comply with the request as soon as practicable,  
28 but no later than five business days from the date a request pursuant  
29 to this paragraph is received. The copy of the ~~records~~ *written injury*  
30 *prevention program* shall be provided to the current employee, or  
31 to his or her authorized representative, at no cost. An employer  
32 may designate the person to whom a request under this paragraph  
33 is to be made. A violation of this paragraph is an infraction.  
34 Impossibility of performance, not caused by or a result of a  
35 violation of law, shall be an affirmative defense for an employer  
36 in any action alleging a violation of this paragraph. For purposes  
37 of this paragraph, an “authorized representative” means a person  
38 authorized in writing by a current employee to receive a copy of  
39 the ~~records~~ *written injury prevention program* referred to in  
40 subdivision (a).

1 (4) A failure by an employer to comply with ~~this subdivision,~~  
2 *paragraph (3)* entitles an employee to recover a  
3 seven-hundred-fifty-dollar (\$750) penalty from the ~~employer for~~  
4 ~~each violation.~~ *employer.*

5 (f) (1) The standards board shall adopt a standard setting forth  
6 the employer's duties under this section, on or before January 1,  
7 1991, consistent with the requirements specified in subdivisions  
8 (a), (b), (c), (d), and (e). The standards board, in adopting the  
9 standard, shall include substantial compliance criteria for use in  
10 evaluating an employer's injury prevention program. The board  
11 may adopt less stringent criteria for employers with few employees  
12 and for employers in industries with insignificant occupational  
13 safety or health hazards.

14 (2) Notwithstanding subdivision (a), for employers with fewer  
15 than 20 employees who are in industries that are not on a  
16 designated list of high hazard industries and who have a workers'  
17 compensation experience modification rate of 1.1 or less, and for  
18 any employers with fewer than 20 employees who are in industries  
19 that are on a designated list of low hazard industries, the board  
20 shall adopt a standard setting forth the employer's duties under  
21 this section consistent with the requirements specified in  
22 subdivisions (a), (b), and (c) except that the standard shall only  
23 require written documentation to the extent of documenting the  
24 person or persons responsible for implementing the program  
25 pursuant to paragraph (1) of subdivision (a), keeping a record of  
26 periodic inspections pursuant to paragraph (2) of subdivision (a),  
27 and keeping a record of employee training pursuant to paragraph  
28 (4) of subdivision (a). To any extent beyond the specifications of  
29 this subdivision, the standard shall not require the employer to  
30 keep the records specified in subdivision (d).

31 (3) (A) The division shall establish a list of high hazard  
32 industries using the methods prescribed in Section 6314.1 for  
33 identifying and targeting employers in high hazard industries. For  
34 purposes of this subdivision, the "designated list of high hazard  
35 industries" shall be the list established pursuant to this paragraph.

36 (B) For the purpose of implementing this subdivision, the  
37 Department of Industrial Relations shall periodically review, and  
38 as necessary revise, the list.

39 (4) For the purpose of implementing this subdivision, the  
40 Department of Industrial Relations shall also establish a list of low

1 hazard industries, and shall periodically review, and as necessary  
2 revise, that list.

3 (g) The standard adopted pursuant to subdivision (f) shall  
4 specifically permit employer and employee occupational safety  
5 and health committees to be included in the employer's injury  
6 prevention program. The board shall establish criteria for use in  
7 evaluating employer and employee occupational safety and health  
8 committees. The criteria shall include minimum duties, including  
9 the following:

10 (1) Review of the employer's periodic, scheduled worksite  
11 inspections; investigation of causes of incidents resulting in injury,  
12 illness, or exposure to hazardous substances; and investigation of  
13 any alleged hazardous condition brought to the attention of any  
14 committee member. When determined necessary by the committee,  
15 the committee may conduct its own inspections and investigations.

16 (2) (A) Upon request from the division, verification of  
17 abatement action taken by the employer as specified in division  
18 citations.

19 (B) If an employer's occupational safety and health committee  
20 meets the criteria established by the board, it shall be presumed to  
21 be in substantial compliance with paragraph (5) of subdivision (a).

22 (h) The division shall adopt regulations specifying the  
23 procedures for selecting employee representatives for  
24 employer-employee occupational health and safety committees  
25 when these procedures are not specified in an applicable collective  
26 bargaining agreement. No employee or employee organization  
27 shall be held liable for any act or omission in connection with a  
28 health and safety committee.

29 (i) The employer's injury prevention program, as required by  
30 this section, shall cover all of the employer's employees and all  
31 other workers who the employer controls or directs and directly  
32 supervises on the job to the extent these workers are exposed to  
33 worksite and job assignment specific hazards. Nothing in this  
34 subdivision shall affect the obligations of a contractor or other  
35 employer that controls or directs and directly supervises its own  
36 employees on the job.

37 (j) When a contractor supplies its employee to a state agency  
38 employer on a temporary basis, the state agency employer may  
39 assess a fee upon the contractor to reimburse the state agency for

1 the additional costs, if any, of including the contract employee  
2 within the state agency's injury prevention program.

3 (k) (1) The division shall prepare a Model Injury and Illness  
4 Prevention Program for Non-High-Hazard Employment, and shall  
5 make copies of the model program prepared pursuant to this  
6 subdivision available to employers, upon request, for posting in  
7 the workplace. An employer who adopts and implements the model  
8 program prepared by the division pursuant to this paragraph in  
9 good faith shall not be assessed a civil penalty for the first citation  
10 for a violation of this section issued after the employer's adoption  
11 and implementation of the model program.

12 (2) For purposes of this subdivision, the division shall establish  
13 a list of non-high-hazard industries in California. These industries,  
14 identified by their Standard Industrial Classification Codes, as  
15 published by the United States Office of Management and Budget  
16 in the Manual of Standard Industrial Classification Codes, 1987  
17 Edition, are apparel and accessory stores (Code 56), eating and  
18 drinking places (Code 58), miscellaneous retail (Code 59), finance,  
19 insurance, and real estate (Codes 60–67), personal services (Code  
20 72), business services (Code 73), motion pictures (Code 78) except  
21 motion picture production and allied services (Code 781), legal  
22 services (Code 81), educational services (Code 82), social services  
23 (Code 83), museums, art galleries, and botanical and zoological  
24 gardens (Code 84), membership organizations (Code 86),  
25 engineering, accounting, research, management, and related  
26 services (Code 87), private households (Code 88), and  
27 miscellaneous services (Code 89). To further identify industries  
28 that may be included on the list, the division shall also consider  
29 data from a rating organization, as defined in Section 11750.1 of  
30 the Insurance Code, and all other appropriate information. The list  
31 shall be established by June 30, 1994, and shall be reviewed, and  
32 as necessary revised, biennially.

33 (3) The division shall prepare a Model Injury and Illness  
34 Prevention Program for Employers in Industries with Intermittent  
35 Employment, and shall determine which industries have historically  
36 utilized seasonal or intermittent employees. An employer in an  
37 industry determined by the division to have historically utilized  
38 seasonal or intermittent employees shall be deemed to have  
39 complied with the requirements of subdivision (a) with respect to  
40 a written injury prevention program if the employer adopts the

1 model program prepared by the division pursuant to this paragraph  
2 and complies with any instructions relating thereto.

3 (l) With respect to any county, city, city and county, or district,  
4 or any public or quasi-public corporation or public agency therein,  
5 including any public entity, other than a state agency, that is a  
6 member of, or created by, a joint powers agreement, subdivision  
7 (d) shall not apply.

8 (m) Every workers' compensation insurer shall conduct a  
9 review, including a written report as specified below, of the injury  
10 and illness prevention program (IIPP) of each of its insureds with  
11 an experience modification of 2.0 or greater within six months of  
12 the commencement of the initial insurance policy term. The review  
13 shall determine whether the insured has implemented all of the  
14 required components of the IIPP, and evaluate their effectiveness.  
15 The training component of the IIPP shall be evaluated to determine  
16 whether training is provided to line employees, supervisors, and  
17 upper level management, and effectively imparts the information  
18 and skills each of these groups needs to ensure that all of the  
19 insured's specific health and safety issues are fully addressed by  
20 the insured. The reviewer shall prepare a detailed written report  
21 specifying the findings of the review and all recommended changes  
22 deemed necessary to make the IIPP effective. The reviewer shall  
23 be or work under the direction of a licensed California professional  
24 engineer, certified safety professional, or a certified industrial  
25 hygienist.

26 (n) This section shall become operative on July 1, 2017.

27 SEC. 3. No reimbursement is required by this act pursuant to  
28 Section 6 of Article XIII B of the California Constitution because  
29 the only costs that may be incurred by a local agency or school  
30 district will be incurred because this act creates a new crime or  
31 infraction, eliminates a crime or infraction, or changes the penalty  
32 for a crime or infraction, within the meaning of Section 17556 of  
33 the Government Code, or changes the definition of a crime within  
34 the meaning of Section 6 of Article XIII B of the California  
35 Constitution.