

AMENDED IN SENATE JUNE 14, 2016

AMENDED IN ASSEMBLY MAY 31, 2016

AMENDED IN ASSEMBLY APRIL 13, 2016

AMENDED IN ASSEMBLY APRIL 6, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2895**

---

---

**Introduced by Assembly Member Roger Hernández**

March 1, 2016

---

---

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, Roger Hernández. 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 the written injury prevention program at each worksite and to make it available to any employee upon oral

request. The bill would also require an employer to inform each employee and each new hire of the availability of, and of the employee’s rights with respect to inspecting and receiving, a copy of the written injury prevention program, as specified.

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. The bill would entitle an employee to ~~recover a penalty in a civil action for failure by injunctive relief~~ if an employer *has not timely responded to a written request for a complete copy of the written injury prevention program and has failed to comply with the employee’s subsequent written demand for compliance with this requirement unless the division has cited the employer for failing to comply before the employee undertakes to recover the penalty: the action seeking injunctive relief.*

Because 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.

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

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

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

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

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

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

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

1 of those steps taken to implement and maintain the program with  
2 respect to hazards specific to an employee's job duties.

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

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

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

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

37 (4) For the purpose of implementing this subdivision, the  
38 Department of Industrial Relations shall also establish a list of low  
39 hazard industries, and shall periodically review, and as necessary  
40 revise, that list.

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

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

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

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

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

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

35 (i) When a contractor supplies its employee to a state agency  
36 employer on a temporary basis, the state agency employer may  
37 assess a fee upon the contractor to reimburse the state agency for  
38 the additional costs, if any, of including the contract employee  
39 within the state agency's injury prevention program.

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

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

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

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

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

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

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

27 6401.7. (a) Every employer shall establish, implement, and  
28 maintain an effective injury prevention program. The program  
29 shall be written, except as provided in subdivision (f), and shall  
30 include, but not be limited to, the following elements:

31 (1) Identification of the person or persons responsible for  
32 implementing the program.

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

36 (3) The employer's methods and procedures for correcting  
37 unsafe or unhealthy conditions and work practices in a timely  
38 manner.

39 (4) An occupational health and safety training program designed  
40 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) An employer shall keep an up-to-date complete copy of  
39 the written injury prevention program referred to in subdivision  
40 (a) at each worksite, and shall make it available for inspection by

1 any current employee or by the division upon an oral request. The  
2 worksite copy shall be in English, and, if the language spoken by  
3 the majority of the employees at the worksite is not English, the  
4 worksite copy shall also be in the language spoken by the majority  
5 of the employees at the worksite.

6 (2) Commencing July 1, 2017, an employer shall inform each  
7 current employee, and, after the operative date of this section, each  
8 new employee at the time of hire, in a language understood by the  
9 employee, that the employer has a complete copy of the written  
10 injury prevention program referred to in subdivision (a) at the  
11 worksite; that the employee has a right to inspect it; and that the  
12 employee or his or her authorized representative has a right to  
13 submit a written request to receive a complete copy of the written  
14 injury prevention program referred to in subdivision (a) within  
15 five business days at no charge.

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

33 (4) ~~A failure by an employer~~ *An employee is entitled to*  
34 *injunctive relief if an employer has not timely responded to a*  
35 *written request for a complete copy of the written injury prevention*  
36 *program pursuant to paragraph (3) and has failed to comply with*  
37 *a subsequent written demand from the employee that the employer*  
38 *comply with paragraph (3) entitles an employee to recover in a*  
39 *civil action a seven-hundred-fifty-dollar (\$750) penalty from the*  
40 *employer; (3), provided that the division has not cited the employer*

1 for a failure to comply with paragraph (3) prior to the employee  
2 undertaking ~~a civil~~ *the* action ~~to recover the penalty.~~ *seeking*  
3 *injunctive relief.*

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

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

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

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

38 (4) For the purpose of implementing this subdivision, the  
39 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.

O