

AMENDED IN ASSEMBLY FEBRUARY 29, 2016

AMENDED IN SENATE AUGUST 26, 2015

CALIFORNIA LEGISLATURE—2015–16 SECOND EXTRAORDINARY SESSION

SENATE BILL

No. 5

Introduced by Senator Leno

**(Coauthors: Senators Beall, Hernandez, Liu, McGuire, Mitchell,
and Pan Pan, and Pavley)**

July 16, 2015

An act to amend Sections 22950.5, 22958, and 22962 of, to amend, repeal, and add ~~Sections 22973 and~~ *Section 22980.2* of, and to add ~~Section 22971.7~~ *Sections 22971.7 and 22973.3* to, the Business and Professions Code, to amend Section 1947.5 of the Civil Code, to amend Section 48901 of the Education Code, to amend Section 7597 of the Government Code, to amend Sections 1234, 1286, 1530.7, 1596.795, 104495, 114332.3, 114371, 118910, 118925, and 118948 of, to add Section 119406 to, and to repeal Section 119405 of, the Health and Safety Code, to amend Section 6404.5 of the Labor Code, to amend Section 308 of the Penal Code, to amend Sections 561 and 99580 of the Public Utilities Code, and to amend Section 12523 of the Vehicle Code, relating to electronic cigarettes.

LEGISLATIVE COUNSEL'S DIGEST

SB 5, as amended, Leno. Electronic cigarettes.

Existing law, the Stop Tobacco Access to Kids Enforcement (STAKE) Act, prohibits a person from selling or otherwise furnishing tobacco products to ~~minors~~ *a person under 18 years of age*. Existing law permits enforcing agencies to assess various civil penalties for violations of the STAKE Act. Existing law makes it a crime to furnish tobacco products

to ~~minors~~; *a person under 18 years of age*. Existing law also prohibits a person from selling or otherwise furnishing an electronic cigarette to ~~minors~~; *a person under 18 years of age*, and makes a violation punishable as an infraction.

This bill would define the term “smoking” for purposes of the STAKE Act. The bill would also change the STAKE Act’s definition of “tobacco products” to include electronic devices, such as electronic cigarettes, that deliver nicotine or other vaporized liquids, and make furnishing the tobacco product to a minor a misdemeanor.

Existing law, the Cigarette and Tobacco Products Tax Law, imposes a tax on the distribution of cigarettes and tobacco products at specified rates, and defines tobacco products for those purposes. Existing law, the Cigarette and Tobacco Products Licensing Act of 2003, requires the State Board of Equalization to administer a statewide program to license manufacturers, importers, distributors, wholesalers, and retailers of cigarettes and tobacco products, as defined. Under existing law, a violation of this act is a misdemeanor. Existing law requires a retailer to have in place and maintain a license to engage in the sale of cigarettes or tobacco products, as defined, and prescribes procedures for the issuance of and grounds for revocation or suspension of a license. Existing law requires a retailer who seeks to obtain a license to engage in the sale of cigarettes and tobacco products to pay a one-time license fee of \$100, as specified. Existing law authorizes the State Board of Equalization or a law enforcement agency that discovers that a retailer or other person possesses, stores, owns, or has made a retail sale of tobacco products on which a tax is due but has not been paid to seize those products, and deems those products forfeited, as specified.

This bill would include in the definition of tobacco products for the purposes of those provisions relating to licenses for retailers the STAKE Act’s new definition of tobacco products. ~~This bill would require a retailer that seeks to sell a tobacco product that is not subject to imposition of a tax under the Cigarette and Tobacco Products Tax Law to pay a one-time license fee to engage in the sale of that product, as specified. The bill would impose a specified fee on retailers, to be submitted with each license or renewal application for the sale or distribution of tobacco products that are not subject to a tax imposed by the Cigarette and Tobacco Products Tax Law, unless the retailer is already in possession of a valid license to sell cigarette and tobacco products that are subject to that tax.~~ The bill would ~~except~~ include the STAKE Act’s new definition of tobacco products ~~from~~ in the provision

authorizing seizure of tobacco products described above. The bill would make these provisions operative on ~~October 1, 2016~~. *January 1, 2017.*

Existing law makes it a crime for a person or entity to engage in the business of selling cigarettes or tobacco products without a valid license or after a license has been suspended or revoked, as specified. Existing law also makes it a crime for a person to continue selling or gifting cigarettes or tobacco products without a valid license or after a notification of suspension or revocation, as specified.

This bill would include in the definition of tobacco products for the purposes of those provisions the STAKE Act's new definition of tobacco products. The bill would require all cartridges for electronic cigarettes and solutions for filling or refilling an electronic cigarette to be in ~~childproof~~ *child-resistant* packaging, as prescribed. The bill would make these provisions operative on October 1, 2016.

Existing law prohibits the smoking of cigarettes and other tobacco products in a variety of specified areas. Under existing law, a violation of some of these prohibitions is punishable as an infraction.

This bill would change the location restrictions for smoking cigarettes and other tobacco products to reflect the STAKE Act's definitions of smoking and tobacco products. The bill would make the use of electronic cigarettes in some of these restricted locations a violation punishable as an infraction.

Existing law prohibits the smoking of medical marijuana in any place where smoking is prohibited by law.

This bill would declare that its provisions do not affect any law or regulation regarding medical marijuana.

This bill would incorporate additional changes to Section 6404.5 of the Labor Code proposed by certain bills in the 2nd Extraordinary Session of the 2015–16 Legislative Session that would become operative if this bill and those bills are enacted, as specified, and this bill is enacted last.

This bill would incorporate additional changes to Section 22958 of the Business and Professions Code and Section 308 of the Penal Code proposed by SB 7 and AB 8 in the 2nd Extraordinary Session of the 2015–16 Legislative Session. Those other bills would prohibit selling, advertising, or furnishing tobacco products to, or the purchasing of tobacco products by, persons under 21 years of age. If this bill and those bills are enacted, as specified, and this bill is enacted last, then this bill would prohibit selling, advertising, or furnishing an electronic

device that delivers nicotine or other vaporized liquids, as specified, to persons under 21 years of age.

By expanding the scope of a 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 22950.5 of the Business and Professions
2 Code is amended to read:

3 22950.5. For purposes of this division, the following terms
4 have the following meanings:

5 (a) “Department” means the State Department of Public Health.

6 (b) “Enforcing agency” means the State Department of Public
7 Health, another state agency, including, but not limited to, the
8 office of the Attorney General, or a local law enforcement agency,
9 including, but not limited to, a city attorney, district attorney, or
10 county counsel.

11 (c) “Smoking” means inhaling, exhaling, burning, or carrying
12 any lighted or heated cigar, cigarette, or pipe, or any other lighted
13 or heated tobacco or plant product intended for inhalation, whether
14 natural or synthetic, in any manner or in any form. “Smoking”
15 includes the use of an electronic smoking device that creates an
16 aerosol or vapor, in any manner or in any form, or the use of any
17 oral smoking device for the purpose of circumventing the
18 prohibition of smoking.

19 (d) (1) “Tobacco product” means any of the following:

20 (A) A product containing, made, or derived from tobacco or
21 nicotine that is intended for human consumption, whether smoked,
22 heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or
23 ingested by any other means, including, but not limited to,
24 cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, or
25 snuff.

1 (B) An electronic device that delivers nicotine or other vaporized
2 liquids to the person inhaling from the device, including, but not
3 limited to, an electronic cigarette, cigar, pipe, or hookah.

4 (C) Any component, part, or accessory of a tobacco product,
5 whether or not sold separately.

6 (2) “Tobacco product” does not include a product that has been
7 approved by the United States Food and Drug Administration for
8 sale as a tobacco cessation product or for other therapeutic purposes
9 where the product is marketed and sold solely for such an approved
10 purpose.

11 SEC. 2. Section 22958 of the Business and Professions Code
12 is amended to read:

13 22958. (a) An enforcing agency may assess civil penalties
14 against any person, firm, or corporation that sells, gives, or in any
15 way furnishes to another person who is under 18 years of age, any
16 tobacco, cigarette, cigarette papers, any other instrument or
17 paraphernalia that is designed for the smoking or ingestion of
18 tobacco, tobacco products, or any controlled substance, according
19 to the following schedule: (1) a civil penalty of four hundred dollars
20 (\$400) to six hundred dollars (\$600) for the first violation, (2) a
21 civil penalty of nine hundred dollars (\$900) to one thousand dollars
22 (\$1,000) for the second violation within a five-year period, (3) a
23 civil penalty of one thousand two hundred dollars (\$1,200) to one
24 thousand eight hundred dollars (\$1,800) for a third violation within
25 a five-year period, (4) a civil penalty of three thousand dollars
26 (\$3,000) to four thousand dollars (\$4,000) for a fourth violation
27 within a five-year period, or (5) a civil penalty of five thousand
28 dollars (\$5,000) to six thousand dollars (\$6,000) for a fifth violation
29 within a five-year period.

30 (b) (1) In addition to the civil penalties described in subdivision
31 (a), upon the assessment of a civil penalty for the third, fourth, or
32 fifth violation, the department, within 60 days of the date of service
33 of the final administrative adjudication on the parties or payment
34 of the civil penalty for an uncontested violation, shall notify the
35 State Board of Equalization of the violation. The State Board of
36 Equalization shall then assess a civil penalty of two hundred fifty
37 dollars (\$250) and suspend or revoke a license issued pursuant to
38 Chapter 2 (commencing with Section 22972) of Division 8.6 in
39 accordance with the following schedule:

1 (A) A 45-day suspension of the license for a third violation at
2 the same location within a five-year period.

3 (B) A 90-day suspension of the license for a fourth violation at
4 the same location within a five-year period.

5 (C) Revocation of the license for a fifth violation at the same
6 location within a five-year period.

7 (2) The provisions of Chapter 4 (commencing with Section
8 55121) of Part 30 of Division 2 of the Revenue and Taxation Code
9 apply with respect to the collection of the penalty imposed by the
10 State Board of Equalization pursuant to paragraph (1).

11 (c) (1) For each suspension or revocation pursuant to
12 subdivision (b), the civil penalty of two hundred fifty dollars (\$250)
13 assessed pursuant to that subdivision, notwithstanding Section
14 22953, shall be deposited into the Cigarette and Tobacco Products
15 Compliance Fund established pursuant to Section 22990. Moneys
16 from that civil penalty deposited into this fund shall be made
17 available to the State Board of Equalization, upon appropriation
18 by the Legislature, for the purposes of meeting its duties under
19 subdivision (b).

20 (2) The department shall, upon request, provide to the State
21 Board of Equalization information concerning any person, firm,
22 or corporation that has been assessed a civil penalty for violation
23 of the STAKE Act pursuant to this section when the department
24 has notified the State Board of Equalization of the violation.

25 (d) The enforcing agency shall assess penalties pursuant to the
26 schedule set forth in subdivision (a) against a person, firm, or
27 corporation that sells, offers for sale, or distributes tobacco products
28 from a cigarette or tobacco products vending machine, or a person,
29 firm, or corporation that leases, furnishes, or services these
30 machines in violation of Section 22960.

31 (e) An enforcing agency may assess civil penalties against a
32 person, firm, or corporation that sells or deals in tobacco or any
33 preparation thereof, and fails to post conspicuously and keep posted
34 in the place of business at each point of purchase the notice
35 required pursuant to subdivision (b) of Section 22952. The civil
36 penalty shall be in the amount of two hundred dollars (\$200) for
37 the first offense and five hundred dollars (\$500) for each additional
38 violation.

39 (f) An enforcing agency shall assess penalties in accordance
40 with the schedule set forth in subdivision (a) against a person, firm,

1 or corporation that advertises or causes to be advertised a tobacco
2 product on an outdoor billboard in violation of Section 22961.

3 (g) If a civil penalty has been assessed pursuant to this section
4 against a person, firm, or corporation for a single, specific violation
5 of this division, the person, firm, or corporation shall not be
6 prosecuted under Section 308 of the Penal Code for a violation
7 based on the same facts or specific incident for which the civil
8 penalty was assessed. If a person, firm, or corporation has been
9 prosecuted for a single, specific violation of Section 308 of the
10 Penal Code, the person, firm, or corporation shall not be assessed
11 a civil penalty under this section based on the same facts or specific
12 incident upon which the prosecution under Section 308 of the Penal
13 Code was based.

14 (h) (1) In the case of a corporation or business with more than
15 one retail location, to determine the number of accumulated
16 violations for purposes of the penalty schedule set forth in
17 subdivision (a), violations of this division by one retail location
18 shall not be accumulated against other retail locations of that same
19 corporation or business.

20 (2) In the case of a retail location that operates pursuant to a
21 franchise as defined in Section 20001, violations of this division
22 accumulated and assessed against a prior owner of a single
23 franchise location shall not be accumulated against a new owner
24 of the same single franchise location for purposes of the penalty
25 schedule set forth in subdivision (a).

26 (i) Proceedings under this section shall be conducted pursuant
27 to Section 131071 of the Health and Safety Code, except in cases
28 where a civil penalty is assessed by an enforcing agency other than
29 the department, in which case proceedings shall be conducted
30 pursuant to the procedures of that agency that are consistent with
31 Section 131071 of the Health and Safety Code.

32 *SEC. 2.5. Section 22958 of the Business and Professions Code*
33 *is amended to read:*

34 22958. (a) An enforcing agency may assess civil penalties
35 against any person, firm, or corporation that sells, gives, or in any
36 way furnishes to another person who is under ~~the age of 18 years,~~
37 *21 years of age*, any tobacco, cigarette, cigarette papers, any other
38 instrument or paraphernalia that is designed for the smoking or
39 ingestion of tobacco, ~~products prepared from tobacco,~~ *tobacco*
40 *products*, or any controlled substance, according to the following

1 schedule: (1) a civil penalty of ~~from~~ four hundred dollars (\$400)
2 to six hundred dollars (\$600) for the first violation, (2) a civil
3 penalty of ~~from~~ nine hundred dollars (\$900) to one thousand dollars
4 (\$1,000) for the second violation within a five-year period, (3) a
5 civil penalty of ~~from~~ one thousand two hundred dollars (\$1,200)
6 to one thousand eight hundred dollars (\$1,800) for a third violation
7 within a five-year period, (4) a civil penalty of ~~from~~ three thousand
8 dollars (\$3,000) to four thousand dollars (\$4,000) for a fourth
9 violation within a five-year period, or (5) a civil penalty of ~~from~~
10 five thousand dollars (\$5,000) to six thousand dollars (\$6,000) for
11 a fifth violation within a five-year period.

12 (b) (1) In addition to the civil penalties described in subdivision
13 (a), upon the assessment of a civil penalty for the third, fourth, or
14 fifth violation, the department, within 60 days of the date of service
15 of the final administrative adjudication on the parties or payment
16 of the civil penalty for an uncontested violation, shall notify the
17 State Board of Equalization of the violation. The State Board of
18 Equalization shall then assess a civil penalty of two hundred fifty
19 dollars (\$250) and suspend or revoke a license issued pursuant to
20 Chapter 2 (commencing with Section 22972) of Division 8.6 in
21 accordance with the following schedule:

22 (A) A 45-day suspension of the license for a third violation at
23 the same location within a five-year period.

24 (B) A 90-day suspension of the license for a fourth violation at
25 the same location within a five-year period.

26 (C) Revocation of the license for a fifth violation at the same
27 location within a five-year period.

28 (2) The provisions of Chapter 4 (commencing with Section
29 55121) of Part 30 of Division 2 of the Revenue and Taxation Code
30 apply with respect to the collection of the penalty imposed by the
31 State Board of Equalization pursuant to paragraph (1).

32 (c) (1) For each suspension or revocation pursuant to
33 subdivision (b), the civil penalty of two hundred fifty dollars (\$250)
34 assessed pursuant to that subdivision, notwithstanding Section
35 22953, shall be deposited into the Cigarette and Tobacco Products
36 Compliance Fund established pursuant to Section 22990. Moneys
37 from that civil penalty deposited into this fund shall be made
38 available to the State Board of Equalization, upon appropriation
39 by the Legislature, for the purposes of meeting its duties under
40 subdivision (b).

1 (2) The department shall, upon request, provide to the State
2 Board of Equalization information concerning any person, firm,
3 or corporation that has been assessed a civil penalty for violation
4 of the STAKE Act pursuant to this section when the department
5 has notified the State Board of Equalization of the violation.

6 (d) The enforcing agency shall assess penalties pursuant to the
7 schedule set forth in subdivision (a) against a person, firm, or
8 corporation that sells, offers for sale, or distributes tobacco products
9 from a cigarette or tobacco products vending machine, or a person,
10 firm, or corporation that leases, furnishes, or services these
11 machines in violation of Section 22960.

12 (e) An enforcing agency may assess civil penalties against a
13 person, firm, or corporation that sells or deals in tobacco or any
14 preparation thereof, and fails to post conspicuously and keep posted
15 in the place of business at each point of purchase the notice
16 required pursuant to subdivision (b) of Section 22952. The civil
17 penalty shall be in the amount of two hundred dollars (\$200) for
18 the first offense and five hundred dollars (\$500) for each additional
19 violation.

20 (f) An enforcing agency shall assess penalties in accordance
21 with the schedule set forth in subdivision (a) against a person, firm,
22 or corporation that advertises or causes to be advertised a tobacco
23 product on an outdoor billboard in violation of Section 22961.

24 (g) If a civil penalty has been assessed pursuant to this section
25 against a person, firm, or corporation for a single, specific violation
26 of this division, the person, firm, or corporation shall not be
27 prosecuted under Section 308 of the Penal Code for a violation
28 based on the same facts or specific incident for which the civil
29 penalty was assessed. If a person, firm, or corporation has been
30 prosecuted for a single, specific violation of Section 308 of the
31 Penal Code, the person, firm, or corporation shall not be assessed
32 a civil penalty under this section based on the same facts or specific
33 incident upon which the prosecution under Section 308 of the Penal
34 Code was based.

35 (h) (1) In the case of a corporation or business with more than
36 one retail location, to determine the number of accumulated
37 violations for purposes of the penalty schedule set forth in
38 subdivision (a), violations of this division by one retail location
39 shall not be accumulated against other retail locations of that same
40 corporation or business.

1 (2) In the case of a retail location that operates pursuant to a
2 franchise as defined in Section 20001, violations of this division
3 accumulated and assessed against a prior owner of a single
4 franchise location shall not be accumulated against a new owner
5 of the same single franchise location for purposes of the penalty
6 schedule set forth in subdivision (a).

7 (i) Proceedings under this section shall be conducted pursuant
8 to Section 131071 of the Health and Safety Code, except in cases
9 where a civil penalty is assessed by an enforcing agency other than
10 the department, in which case proceedings shall be conducted
11 pursuant to the procedures of that agency that are consistent with
12 Section 131071 of the Health and Safety Code.

13 SEC. 3. Section 22962 of the Business and Professions Code
14 is amended to read:

15 22962. (a) For purposes of this section, the following terms
16 have the following meanings:

17 (1) “Self-service display” means the open display of tobacco
18 products or tobacco paraphernalia in a manner that is accessible
19 to the general public without the assistance of the retailer or
20 employee of the retailer.

21 (2) “Tobacco paraphernalia” means cigarette papers or wrappers,
22 blunt wraps as defined in Section 308 of the Penal Code, pipes,
23 holders of smoking materials of all types, cigarette rolling
24 machines, or other instruments or things designed for the smoking
25 or ingestion of tobacco products.

26 (3) “Tobacco product” means a product or device as defined in
27 subdivision (d) of Section 22950.5 of the Business and Professions
28 Code.

29 (4) “Tobacco store” means a retail business that meets all of the
30 following requirements:

31 (A) Primarily sells tobacco products.

32 (B) Generates more than 60 percent of its gross revenues
33 annually from the sale of tobacco products and tobacco
34 paraphernalia.

35 (C) Does not permit any person under 18 years of age to be
36 present or enter the premises at any time, unless accompanied by
37 the person’s parent or legal guardian, as defined in Section 6903
38 of the Family Code.

39 (D) Does not sell alcoholic beverages or food for consumption
40 on the premises.

1 (b) (1) (A) Except as permitted in subdivision (b) of Section
2 22960, it is unlawful for a person engaged in the retail sale of
3 tobacco products to sell, offer for sale, or display for sale any
4 tobacco product or tobacco paraphernalia by self-service display.
5 A person who violates this section is subject to those civil penalties
6 specified in the schedule in subdivision (a) of Section 22958.

7 (B) A person who violates this section is subject to those civil
8 penalties specified in the schedule in subdivision (a) of Section
9 22958.

10 (2) It is unlawful for a person engaged in the retail sale of blunt
11 wraps to place or maintain, or to cause to be placed or maintained,
12 any blunt wraps advertising display within two feet of candy,
13 snack, or nonalcoholic beverage displayed inside any store or
14 business.

15 (3) It is unlawful for any person or business to place or maintain,
16 or cause to be placed or maintained, any blunt wrap advertising
17 display that is less than four feet above the floor.

18 (c) Subdivision (b) shall not apply to the display in a tobacco
19 store of cigars, pipe tobacco, snuff, chewing tobacco, or dipping
20 tobacco, provided that in the case of cigars they are generally not
21 sold or offered for sale in a sealed package of the manufacturer or
22 importer containing less than six cigars. In any enforcement action
23 brought pursuant to this division, the retail business that displays
24 any of the items described in this subdivision in a self-service
25 display shall have the burden of proving that it qualifies for the
26 exemption established in this subdivision.

27 (d) The Attorney General, a city attorney, a county counsel, or
28 a district attorney may bring a civil action to enforce this section.

29 (e) This section does not preempt or otherwise prohibit the
30 adoption of a local standard that imposes greater restrictions on
31 the access to tobacco products than the restrictions imposed by
32 this section. To the extent that there is an inconsistency between
33 this section and a local standard that imposes greater restrictions
34 on the access to tobacco products, the greater restriction on the
35 access to tobacco products in the local standard shall prevail.

36 SEC. 4. Section 22971.7 is added to the Business and
37 Professions Code, immediately preceding Section 22972, to read:

38 22971.7. (a) For the purposes of this chapter, except as
39 provided in subdivision (b), and notwithstanding subdivision (s)

1 of Section 22971, a “tobacco product” includes a product or device
2 as defined in subdivision (d) of Section 22950.5.

3 (b) This section does not apply to subdivision (b) of Section
4 22974.3.

5 (c) This section shall be operative on ~~October 1, 2016.~~ *January*
6 *1, 2017.*

7 ~~SEC. 5. Section 22973 of the Business and Professions Code~~
8 ~~is amended to read:~~

9 ~~22973. (a) An application for a license shall be filed on or~~
10 ~~before April 15, 2004, on a form prescribed by the board and shall~~
11 ~~include the following:~~

12 ~~(1) The name, address, and telephone number of the applicant.~~

13 ~~(2) The business name, address, and telephone number of each~~
14 ~~retail location. For applicants who control more than one retail~~
15 ~~location, an address for receipt of correspondence or notices from~~
16 ~~the board, such as a headquarters or corporate office of the retailer,~~
17 ~~shall also be included on the application and listed on the license.~~
18 ~~Citations issued to licensees shall be forwarded to all addressees~~
19 ~~on the license.~~

20 ~~(3) A statement by the applicant affirming that the applicant~~
21 ~~has not been convicted of a felony and has not violated and will~~
22 ~~not violate or cause or permit to be violated any of the provisions~~
23 ~~of this division or any rule of the board applicable to the applicant~~
24 ~~or pertaining to the manufacture, sale, or distribution of cigarettes~~
25 ~~or tobacco products. If the applicant is unable to affirm this~~
26 ~~statement, the application shall contain a statement by the applicant~~
27 ~~of the nature of any violation or the reasons that will prevent the~~
28 ~~applicant from complying with the requirements with respect to~~
29 ~~the statement.~~

30 ~~(4) If any other licenses or permits have been issued by the~~
31 ~~board or the Department of Alcoholic Beverage Control to the~~
32 ~~applicant, the license or permit number of those licenses or permits~~
33 ~~then in effect.~~

34 ~~(5) A statement by the applicant that the contents of the~~
35 ~~application are complete, true, and correct. Any person who signs~~
36 ~~a statement pursuant to this subdivision that asserts the truth of~~
37 ~~any material matter that he or she knows to be false is guilty of a~~
38 ~~misdemeanor punishable by imprisonment of up to one year in the~~
39 ~~county jail, or a fine of not more than one thousand dollars~~
40 ~~(\$1,000), or both the imprisonment and the fine.~~

1 ~~(6) The signature of the applicant.~~

2 ~~(7) Any other information the board may require.~~

3 ~~(b) The board may investigate to determine the truthfulness and~~
4 ~~completeness of the information provided in the application. The~~
5 ~~board may issue a license without further investigation to an~~
6 ~~applicant for a retail location if the applicant holds a valid license~~
7 ~~from the Department of Alcoholic Beverage Control for that same~~
8 ~~location.~~

9 ~~(c) The board shall provide electronic means for applicants to~~
10 ~~download and submit applications.~~

11 ~~(d) (1) A one-time license fee of one hundred dollars (\$100)~~
12 ~~shall be submitted with each application. An applicant that owns~~
13 ~~or controls more than one retail location shall obtain a separate~~
14 ~~license for each retail location, but may submit a single application~~
15 ~~for those licenses with a one-time license fee of one hundred dollars~~
16 ~~(\$100) per location.~~

17 ~~(2) The one-time fee required by this subdivision does not apply~~
18 ~~to an application for renewal of a license for a retail location for~~
19 ~~which the one-time license fee has already been paid. If a license~~
20 ~~is reinstated after its expiration, the retailer, as a condition~~
21 ~~precedent to its reinstatement, shall pay a reinstatement fee of one~~
22 ~~hundred dollars (\$100).~~

23 ~~(e) This section shall become inoperative on October 1, 2016,~~
24 ~~and, as of January 1, 2017, is repealed.~~

25 ~~SEC. 6. Section 22973 is added to the Business and Professions~~
26 ~~Code, to read:~~

27 ~~22973. (a) An application for a license shall be filed on or~~
28 ~~before April 15, 2004, on a form prescribed by the board and shall~~
29 ~~include the following:~~

30 ~~(1) The name, address, and telephone number of the applicant.~~

31 ~~(2) The business name, address, and telephone number of each~~
32 ~~retail location. For applicants who control more than one retail~~
33 ~~location, an address for receipt of correspondence or notices from~~
34 ~~the board, such as a headquarters or corporate office of the retailer,~~
35 ~~shall also be included on the application and listed on the license.~~
36 ~~Citations issued to licensees shall be forwarded to all addressees~~
37 ~~on the license.~~

38 ~~(3) A statement by the applicant affirming that the applicant~~
39 ~~has not been convicted of a felony and has not violated and will~~
40 ~~not violate or cause or permit to be violated any of the provisions~~

1 of this division or any rule of the board applicable to the applicant
2 or pertaining to the manufacture, sale, or distribution of cigarettes
3 or tobacco products. If the applicant is unable to affirm this
4 statement, the application shall contain a statement by the applicant
5 of the nature of any violation or the reasons that will prevent the
6 applicant from complying with the requirements with respect to
7 the statement.

8 (4) If any other licenses or permits have been issued by the
9 board or the Department of Alcoholic Beverage Control to the
10 applicant, the license or permit number of those licenses or permits
11 then in effect.

12 (5) A statement by the applicant that the contents of the
13 application are complete, true, and correct. Any person who signs
14 a statement pursuant to this subdivision that asserts the truth of
15 any material matter that he or she knows to be false is guilty of a
16 misdemeanor punishable by imprisonment of up to one year in the
17 county jail, or a fine of not more than one thousand dollars
18 (\$1,000), or both the imprisonment and the fine.

19 (6) The signature of the applicant.

20 (7) Any other information the board may require.

21 (b) The board may investigate to determine the truthfulness and
22 completeness of the information provided in the application. The
23 board may issue a license without further investigation to an
24 applicant for a retail location if the applicant holds a valid license
25 from the Department of Alcoholic Beverage Control for that same
26 location.

27 (c) The board shall provide electronic means for applicants to
28 download and submit applications.

29 (d) (1) A one-time license fee of one hundred dollars (\$100)
30 shall be submitted with each application to obtain a license to
31 engage in the sale of a cigarette or a tobacco product, as defined
32 in Sections 30121 and 30131.1 of the Revenue and Taxation Code.
33 An applicant that owns or controls more than one retail location
34 shall obtain a separate license for each retail location, but may
35 submit a single application for those licenses with a one-time
36 license fee of one hundred dollars (\$100) per location.

37 (2) A one-time license fee in an amount determined by the State
38 Board of Equalization shall be submitted with each application to
39 obtain a license to engage in the sale of a tobacco product, as
40 defined in subdivision (d) of Section 22950.5, that is not subject

1 to a tax imposed by the Cigarette and Tobacco Products Tax Law
2 pursuant to Part 13 (commencing with Section 30001) of Division
3 2 of the Revenue and Taxation Code. The fee collected pursuant
4 to this paragraph shall not exceed the total cost associated with
5 the administration and enforcement of the license.

6 ~~(3) The one-time fee required by paragraph (1) of this~~
7 ~~subdivision does not apply to an application for renewal of a license~~
8 ~~for a retail location for which the one-time license fee has already~~
9 ~~been paid. If a license is reinstated after its expiration, the retailer,~~
10 ~~as a condition precedent to its reinstatement, shall pay a~~
11 ~~reinstatement fee of one hundred dollars (\$100).~~

12 ~~(e) This section shall be operative on October 1, 2016.~~

13 *SEC. 5. Section 22973.3 is added to the Business and*
14 *Professions Code, to read:*

15 *22973.3. (a) Notwithstanding any other law, an application*
16 *for a license for the sale of a tobacco product, as defined in*
17 *subdivision (d) of Section 22950.5, that is not subject to a tax*
18 *imposed by the Cigarette and Tobacco Products Tax Law pursuant*
19 *to Part 13 (commencing with Section 30001) of Division 2 of the*
20 *Revenue and Taxation Code shall be filed on a form prescribed*
21 *by the board and shall include the following:*

22 *(1) The name, address, and telephone number of the applicant.*

23 *(2) The business name, address, and telephone number of each*
24 *retail location. For applicants who control more than one retail*
25 *location, an address for receipt of correspondence or notices from*
26 *the board, such as a headquarters or corporate office of the*
27 *retailer, shall also be included on the application and listed on*
28 *the license. Citations issued to licensees shall be forwarded to all*
29 *addressees on the license.*

30 *(3) A statement by the applicant affirming that the applicant*
31 *has not been convicted of a felony and has not violated and will*
32 *not violate or cause or permit to be violated any of the provisions*
33 *of this division or any rule of the board applicable to the applicant*
34 *or pertaining to the manufacture, sale, or distribution of cigarettes*
35 *or tobacco products. If the applicant is unable to affirm this*
36 *statement, the application shall contain a statement by the*
37 *applicant of the nature of any violation or the reasons that will*
38 *prevent the applicant from complying with the requirements with*
39 *respect to the statement.*

1 (4) If any other licenses or permits have been issued by the
2 board or the Department of Alcoholic Beverage Control to the
3 applicant, the license or permit number of those licenses or permits
4 then in effect.

5 (5) A statement by the applicant that the contents of the
6 application are complete, true, and correct. Any person who signs
7 a statement pursuant to this subdivision that asserts the truth of
8 any material matter that he or she knows to be false is guilty of a
9 misdemeanor punishable by imprisonment of up to one year in the
10 county jail, or a fine of not more than one thousand dollars
11 (\$1,000), or both the imprisonment and the fine.

12 (6) The signature of the applicant.

13 (7) Any other information the board may require.

14 (b) The board may investigate to determine the truthfulness and
15 completeness of the information provided in the application. The
16 board may issue a license without further investigation to an
17 applicant for a retail location if the applicant holds a valid license
18 from the Department of Alcoholic Beverage Control for that same
19 location.

20 (c) The board shall provide electronic means for applicants to
21 download and submit applications.

22 (d) A fee of two hundred sixty-five dollars (\$265) shall be
23 submitted with each application. An applicant that owns or controls
24 more than one retail location shall obtain a separate license for
25 each retail location, but may submit a single application for those
26 licenses with an application license fee of two hundred sixty-five
27 dollars (\$265) per location.

28 (e) Every retailer shall file an application for renewal of its
29 license, accompanied with a fee of two hundred sixty-five dollars
30 (\$265) per retail location in the form and manner prescribed by
31 the board.

32 (f) (1) The board shall report back to the Legislature no later
33 than January 1, 2019, regarding the adequacy of funding for the
34 Cigarette and Tobacco Products Licensing Act of 2003 with regard
35 to tobacco products for which a license is required by this section.
36 The report shall include data and recommendations about whether
37 the annual licensing fee funding levels are set at an appropriate
38 level to maintain an effective enforcement program.

39 (2) The report required by paragraph (1) shall be submitted in
40 compliance with Section 9795 of the Government Code.

1 (g) (1) This section shall apply to a retailer who sells a tobacco
2 product, as defined in subdivision (d) of Section 22950.5, that is
3 not subject to a tax imposed by the Cigarette and Tobacco Products
4 Tax Law pursuant to Part 13 (commencing with Section 30001)
5 of Division 2 of the Revenue and Taxation Code, and who does
6 not already possess a valid license to sell cigarettes or tobacco
7 products issued pursuant to Section 22972.

8 (2) A retailer that possesses a valid license to sell cigarettes
9 and tobacco products issued pursuant to Section 22972 may also
10 sell under that license a tobacco product, as defined in subdivision
11 (d) of Section 22950.5, that is not subject to a tax imposed by the
12 Cigarette and Tobacco Products Tax Law pursuant to Part 13
13 (commencing with Section 30001) of Division 2 of the Revenue
14 and Taxation Code.

15 (h) This section shall become operative January 1, 2017.

16 ~~SEC. 7.~~

17 SEC. 6. Section 22980.2 of the Business and Professions Code
18 is amended to read:

19 22980.2. (a) A person or entity that engages in the business
20 of selling cigarettes or tobacco products in this state either without
21 a valid license or after a license has been suspended or revoked,
22 and each officer of any corporation that so engages in this business,
23 is guilty of a misdemeanor punishable as provided in Section
24 22981.

25 (b) Each day after notification by the board or by a law
26 enforcement agency that a manufacturer, wholesaler, distributor,
27 importer, retailer, or any other person required to be licensed under
28 this division offers cigarette and tobacco products for sale or
29 exchange without a valid license for the location from which they
30 are offered for sale shall constitute a separate violation.

31 (c) Continued sales or gifting of cigarettes and tobacco products
32 either without a valid license or after a notification of suspension
33 or revocation shall constitute a violation punishable as provided
34 in Section 22981, and shall result in the seizure of all cigarettes
35 and tobacco products in the possession of the person by the board
36 or a law enforcement agency. Any cigarettes and tobacco products
37 seized by the board or by a law enforcement agency shall be
38 deemed forfeited.

39 (d) This section shall become inoperative on ~~October 1, 2016,~~
40 *January 1, 2017*, and, as of ~~January 1, April 1, 2017~~, is repealed.

1 ~~SEC. 8.~~

2 *SEC. 7.* Section 22980.2 is added to the Business and
3 Professions Code, to read:

4 22980.2. (a) A person or entity that engages in the business
5 of selling cigarettes or tobacco products in this state either without
6 a valid license or after a license has been suspended or revoked,
7 and each officer of any corporation that so engages in this business,
8 is guilty of a misdemeanor punishable as provided in Section
9 22981.

10 (b) Each day after notification by the board or by a law
11 enforcement agency that a manufacturer, wholesaler, distributor,
12 importer, retailer, or any other person required to be licensed under
13 this division offers cigarette and tobacco products for sale or
14 exchange without a valid license for the location from which they
15 are offered for sale shall constitute a separate violation.

16 (c) Continued sales or gifting of cigarettes and tobacco products
17 either without a valid license or after a notification of suspension
18 or revocation shall constitute a violation punishable as provided
19 in Section 22981, and shall result in the seizure of all cigarettes
20 and tobacco products in the possession of the person by the board
21 or a law enforcement agency. Any cigarettes and tobacco products
22 seized by the board or by a law enforcement agency shall be
23 deemed forfeited.

24 (d) For the purposes of this section, notwithstanding subdivision
25 (s) of Section 22971, “tobacco products” includes a product or
26 device as defined in subdivision (d) of Section 22950.5.

27 (e) This section shall be operative on ~~October 1, 2016.~~ *January*
28 *1, 2017.*

29 ~~SEC. 9.~~

30 *SEC. 8.* Section 1947.5 of the Civil Code is amended to read:

31 1947.5. (a) A landlord of a residential dwelling unit, as defined
32 in Section 1940, or his or her agent, may prohibit the smoking of
33 a cigarette, as defined in Section 104556 of the Health and Safety
34 Code, or other tobacco product on the property or in any building
35 or portion of the building, including any dwelling unit, other
36 interior or exterior area, or the premises on which it is located, in
37 accordance with this article.

38 (b) (1) Every lease or rental agreement entered into on or after
39 January 1, 2012, for a residential dwelling unit on property on any
40 portion of which the landlord has prohibited the smoking of

1 cigarettes or other tobacco products pursuant to this article shall
2 include a provision that specifies the areas on the property where
3 smoking is prohibited, if the lessee has not previously occupied
4 the dwelling unit.

5 (2) For a lease or rental agreement entered into before January
6 1, 2012, a prohibition against the smoking of cigarettes or other
7 tobacco products in any portion of the property in which smoking
8 was previously permitted shall constitute a change of the terms of
9 tenancy, requiring adequate notice in writing, to be provided in
10 the manner prescribed in Section 827.

11 (c) A landlord who exercises the authority provided in
12 subdivision (a) to prohibit smoking shall be subject to federal,
13 state, and local requirements governing changes to the terms of a
14 lease or rental agreement for tenants with leases or rental
15 agreements that are in existence at the time that the policy limiting
16 or prohibiting smoking is adopted.

17 (d) This section shall not be construed to preempt any local
18 ordinance in effect on or before January 1, 2012, or any provision
19 of a local ordinance in effect on or after January 1, 2012, that
20 restricts the smoking of cigarettes or other tobacco products.

21 (e) A limitation or prohibition of the use of any tobacco product
22 shall not affect any other term or condition of the tenancy, nor
23 shall this section be construed to require statutory authority to
24 establish or enforce any other lawful term or condition of the
25 tenancy.

26 (f) For purposes of this section, “smoking” has the same
27 meaning as in subdivision (c) of Section 22950.5 of the Business
28 and Professions Code.

29 (g) For purposes of this section, “tobacco product” means a
30 product or device as defined in subdivision (d) of Section 22950.5
31 of the Business and Professions Code.

32 ~~SEC. 10.~~

33 *SEC. 9.* Section 48901 of the Education Code is amended to
34 read:

35 48901. (a) No school shall permit the smoking or use of a
36 tobacco product by pupils of the school while the pupils are on
37 campus, or while attending school-sponsored activities or while
38 under the supervision and control of school district employees.

1 (b) The governing board of any school district maintaining a
2 high school shall take all steps it deems practical to discourage
3 high school students from smoking.

4 (c) For purposes of this section, “smoking” has the same
5 meaning as in subdivision (c) of Section 22950.5 of the Business
6 and Professions Code.

7 (d) For purposes of this section, “tobacco product” means a
8 product or device as defined in subdivision (d) of Section 22950.5
9 of the Business and Professions Code.

10 ~~SEC. 11.~~

11 *SEC. 10.* Section 7597 of the Government Code is amended
12 to read:

13 7597. (a) No public employee or member of the public shall
14 smoke a tobacco product inside a public building, or in an outdoor
15 area within 20 feet of a main exit, entrance, or operable window
16 of a public building, or in a passenger vehicle, as defined by
17 Section 465 of the Vehicle Code, owned by the state.

18 (b) This section shall not preempt the authority of any county,
19 city, city and county, California Community College campus,
20 campus of the California State University, or campus of the
21 University of California to adopt and enforce additional smoking
22 and tobacco control ordinances, regulations, or policies that are
23 more restrictive than the applicable standards required by this
24 chapter.

25 (c) For purposes of this section, “smoke” and “smoking” have
26 the same meaning as in subdivision (c) of Section 22950.5 of the
27 Business and Professions Code.

28 (d) For purposes of this section, “tobacco product” means a
29 product or device as defined in subdivision (d) of Section 22950.5
30 of the Business and Professions Code.

31 ~~SEC. 12.~~

32 *SEC. 11.* Section 1234 of the Health and Safety Code is
33 amended to read:

34 1234. (a) Smoking a tobacco product shall not be permitted
35 in patient areas of a clinic except those rooms designated for
36 occupancy exclusively by smokers.

37 (b) Clearly legible signs shall either:

38 (1) State that smoking is unlawful and be conspicuously posted
39 by, or on behalf of, the owner or manager of such clinic, in all
40 areas of a clinic where smoking is unlawful.

1 (2) Identify “smoking permitted” areas, and be posted by, or on
2 behalf of, the owner or manager of such clinic, only in areas of a
3 clinic where smoking is lawfully permitted.

4 If “smoking permitted” signs are posted, there shall also be
5 conspicuously posted, near all major entrances, clearly legible
6 signs stating that smoking is unlawful except in areas designated
7 “smoking permitted.”

8 (c) This section shall not apply to skilled nursing facilities,
9 intermediate care facilities, and intermediate care facilities for the
10 developmentally disabled.

11 (d) For purposes of this section, “smoking” has the same
12 meaning as in subdivision (c) of Section 22950.5 of the Business
13 and Professions Code.

14 (e) For purposes of this section, “tobacco product” means a
15 product or device as defined in subdivision (d) of Section 22950.5
16 of the Business and Professions Code.

17 ~~SEC. 13.~~

18 *SEC. 12.* Section 1286 of the Health and Safety Code is
19 amended to read:

20 1286. (a) Smoking a tobacco product shall be prohibited in
21 patient care areas, waiting rooms, and visiting rooms of a health
22 facility, except those areas specifically designated as smoking
23 areas, and in patient rooms as specified in subdivision (b).

24 (b) Smoking a tobacco product shall not be permitted in a patient
25 room unless all persons assigned to the room have requested a
26 room where smoking is permitted. In the event that the health
27 facility occupancy has reached capacity, the health facility shall
28 have reasonable time to reassign patients to appropriate rooms.

29 (c) Clearly legible signs shall either:

30 (1) State that smoking is unlawful and be conspicuously posted
31 by, or on behalf of, the owner or manager of the health facility, in
32 all areas of a health facility where smoking is unlawful, or

33 (2) Identify “smoking permitted” areas, and be posted by, or on
34 behalf of, the owner or manager of the health facility, only in areas
35 of the health facility where smoking is lawfully permitted.

36 If “smoking permitted” signs are posted, there shall also be
37 conspicuously posted, near all major entrances, clearly legible
38 signs stating that smoking is unlawful except in areas designated
39 “smoking permitted.”

1 (d) No signs pertaining to smoking are required to be posted in
2 patient rooms.

3 (e) This section shall not apply to skilled nursing facilities,
4 intermediate care facilities, and intermediate care facilities for the
5 developmentally disabled.

6 (f) For purposes of this section, “smoking” has the same
7 meaning as in subdivision (c) of Section 22950.5 of the Business
8 and Professions Code.

9 (g) For purposes of this section, “tobacco product” means a
10 product or device as defined in subdivision (d) of Section 22950.5
11 of the Business and Professions Code.

12 ~~SEC. 14.~~

13 *SEC. 13.* Section 1530.7 of the Health and Safety Code is
14 amended to read:

15 1530.7. (a) Group homes, foster family agencies, small family
16 homes, transitional housing placement providers, and crisis
17 nurseries licensed pursuant to this chapter shall maintain a
18 smoke-free environment in the facility.

19 (b) A person who is licensed or certified pursuant to this chapter
20 to provide residential care in a foster family home or certified
21 family home shall not smoke a tobacco product or permit any other
22 person to smoke a tobacco product inside the facility, and, when
23 the child is present, on the outdoor grounds of the facility.

24 (c) A person who is licensed or certified pursuant to this chapter
25 to provide residential foster care shall not smoke a tobacco product
26 in any motor vehicle that is regularly used to transport the child.

27 (d) For purposes of this section, “smoke” has the same meaning
28 as in subdivision (c) of Section 22950.5 of the Business and
29 Professions Code.

30 (e) For purposes of this section, “tobacco product” means a
31 product or device as defined in subdivision (d) of Section 22950.5
32 of the Business and Professions Code.

33 ~~SEC. 15.~~

34 *SEC. 14.* Section 1596.795 of the Health and Safety Code is
35 amended to read:

36 1596.795. (a) The smoking of a tobacco product in a private
37 residence that is licensed as a family day care home shall be
38 prohibited in the home and in those areas of the family day care
39 home where children are present. Nothing in this section shall
40 prohibit a city or county from enacting or enforcing an ordinance

1 relating to smoking in a family day care home if the ordinance is
2 more stringent than this section.

3 (b) The smoking of a tobacco product on the premises of a
4 licensed day care center shall be prohibited.

5 (c) For purposes of this section, “smoking” has the same
6 meaning as in subdivision (c) of Section 22950.5 of the Business
7 and Professions Code.

8 (d) For purposes of this section, “tobacco product” means a
9 product or device as defined in subdivision (d) of Section 22950.5
10 of the Business and Professions Code.

11 ~~SEC. 16.~~

12 *SEC. 15.* Section 104495 of the Health and Safety Code is
13 amended to read:

14 104495. (a) For the purposes of this section, the following
15 definitions shall govern:

16 (1) “Playground” means any park or recreational area
17 specifically designed to be used by children that has play equipment
18 installed, or any similar facility located on public or private school
19 grounds, or on city, county, or state park grounds.

20 (2) “Tot lot sandbox area” means a designated play area within
21 a public park for the use by children under five years of age. Where
22 the area is not contained by a fence, the boundary of a tot lot
23 sandbox area shall be defined by the edge of the resilient surface
24 of safety material, such as concrete or wood, or any other material
25 surrounding the tot lot sandbox area.

26 (3) “Public park” includes a park operated by a public agency.

27 (4) “Smoke” and “smoking” have the same meaning as in
28 subdivision (c) of Section 22950.5 of the Business and Professions
29 Code.

30 (5) “Cigarette” means the same as defined in Section 104556.

31 (6) “Cigar” means the same as defined in Section 104550.

32 (7) “Tobacco product” means a product or device as defined in
33 subdivision (d) of Section 22950.5 of the Business and Professions
34 Code.

35 (b) No person shall smoke a cigarette, cigar, or other tobacco
36 product within 25 feet of any playground or tot lot sandbox area.

37 (c) No person shall dispose of cigarette butts, cigar butts, or any
38 other tobacco-related waste within 25 feet of a playground or a tot
39 lot sandbox area.

1 (d) No person shall intimidate, threaten any reprisal, or effect
2 any reprisal, for the purpose of retaliating against another person
3 who seeks to attain compliance with this section.

4 (e) Any person who violates this section is guilty of an infraction
5 and shall be punished by a fine of two hundred fifty dollars (\$250)
6 for each violation of this section. Punishment under this section
7 shall not preclude punishment pursuant to Section 13002, Section
8 374.4 of the Penal Code, or any other provision of law proscribing
9 the act of littering.

10 (f) The prohibitions contained in subdivisions (b), (c), and (d)
11 shall not apply to private property.

12 (g) The prohibitions contained in subdivisions (b) and (c) shall
13 not apply to a public sidewalk located within 25 feet of a
14 playground or a tot lot sandbox area.

15 (h) This section shall not preempt the authority of any county,
16 city, or city and county to regulate smoking around playgrounds
17 or tot lot sandbox areas. Any county, city, or city and county may
18 enforce any ordinance adopted prior to January 1, 2002, or may
19 adopt and enforce new regulations that are more restrictive than
20 this section, on and after January 1, 2002.

21 ~~SEC. 17.~~

22 *SEC. 16.* Section 114332.3 of the Health and Safety Code is
23 amended to read:

24 114332.3. (a) No potentially hazardous food or beverage stored
25 or prepared in a private home may be offered for sale, sold, or
26 given away from a nonprofit charitable temporary food facility.
27 Potentially hazardous food shall be prepared in a food
28 establishment or on the premises of a nonprofit charitable
29 temporary food facility.

30 (b) All food and beverages shall be protected at all times from
31 unnecessary handling and shall be stored, displayed, and served
32 so as to be protected from contamination.

33 (c) Potentially hazardous food and beverages shall be maintained
34 at or below 7 degrees Celsius (45 degrees Fahrenheit) or at or
35 above 57.2 degrees Celsius (135 degrees Fahrenheit) at all times.

36 (d) Ice used in beverages shall be protected from contamination
37 and shall be maintained separate from ice used for refrigeration
38 purposes.

39 (e) All food and food containers shall be stored off the floor on
40 shelving or pallets located within the facility.

1 (f) Smoking a tobacco product is prohibited in nonprofit
2 charitable temporary food facilities.

3 (g) (1) Except as provided in paragraph (2), live animals, birds,
4 or fowl shall not be kept or allowed in nonprofit charitable
5 temporary food facilities.

6 (2) Paragraph (1) does not prohibit the presence, in any room
7 where food is served to the public, guests, or patrons, of a guide
8 dog, signal dog, or service dog, as defined by Section 54.1 of the
9 Civil Code, accompanied by a totally or partially blind person,
10 deaf person, person whose hearing is impaired, or handicapped
11 person, or dogs accompanied by persons licensed to train guide
12 dogs for the blind pursuant to Chapter 9.5 (commencing with
13 Section 7200) of Division 3 of the Business and Professions Code.

14 (3) Paragraph (1) does not apply to dogs under the control of
15 uniformed law enforcement officers or of uniformed employees
16 of private patrol operators and operators of a private patrol service
17 who are licensed pursuant to Chapter 11.5 (commencing with
18 Section 7580) of Division 3 of the Business and Professions Code,
19 while these employees are acting within the course and scope of
20 their employment as private patrol persons.

21 (4) The persons and operators described in paragraphs (2) and
22 (3) are liable for any damage done to the premises or facilities by
23 the dog.

24 (5) The dogs described in paragraphs (2) and (3) shall be
25 excluded from food preparation and utensil wash areas. Aquariums
26 and aviaries shall be allowed if enclosed so as not to create a public
27 health problem.

28 (h) All garbage shall be disposed of in a sanitary manner.

29 (i) Employees preparing or handling food shall wear clean
30 clothing and shall keep their hands clean at all times.

31 (j) For purposes of this section, “smoking” has the same meaning
32 as in subdivision (c) of Section 22950.5 of the Business and
33 Professions Code.

34 (k) For purposes of this section, “tobacco product” means a
35 product or device as defined in subdivision (d) of Section 22950.5
36 of the Business and Professions Code.

37 ~~SEC. 18.~~

38 *SEC. 17.* Section 114371 of the Health and Safety Code is
39 amended to read:

1 114371. Certified farmers' markets shall meet all of the
2 following requirements:

3 (a) All food shall be stored at least six inches off the floor or
4 ground or under any other conditions that are approved. Tents,
5 canopies, or other overhead coverings are not required for fresh
6 whole produce sales displays or storage, except when specifically
7 required pursuant to this chapter. Flavored nuts and dried fruits
8 that are being sold on a bulk or nonprepackaged basis shall be
9 displayed and dispensed by the producer from covered containers.
10 All processed food products being sold shall be in compliance with
11 Section 113735 and the applicable provisions of Section 110460,
12 114365, or 114365.2.

13 (b) Food preparation is prohibited at certified farmers' markets
14 with the exception of food samples. Trimming whole produce for
15 sale shall not be considered food preparation. Distribution of food
16 samples may occur provided that the following sanitary conditions
17 exist:

18 (1) Samples shall be kept in clean, nonabsorbent, and covered
19 containers intended by the manufacturer for use with foods. Any
20 cutting or distribution of samples shall only occur under a tent,
21 canopy, or other overhead covering.

22 (2) All food samples shall be distributed by the producer in a
23 manner that is sanitary and in which each sample is distributed
24 without the possibility of a consumer touching the remaining
25 samples.

26 (3) Clean, disposable plastic gloves shall be used when cutting
27 food samples.

28 (4) Fresh, whole produce intended for sampling shall be washed
29 or cleaned in another manner of any soil or other material by
30 potable water in order that it is wholesome and safe for
31 consumption.

32 (5) Notwithstanding Section 114205, available potable water
33 may be required for handwashing and sanitizing; the need
34 determined and manner approved by the enforcement agency.

35 (6) Potentially hazardous food samples shall be maintained at
36 or below 45 degrees Fahrenheit and shall be disposed of within
37 two hours after cutting. A certified farmers' market or an
38 enforcement officer may cause immediate removal and disposal,
39 or confiscate and destroy, any potentially hazardous food samples
40 found not in compliance with this paragraph.

1 (7) Wastewater shall be disposed of in a facility connected to
2 the public sewer system or in a manner approved by the
3 enforcement agency.

4 (8) Utensils and cutting surfaces shall be smooth, nonabsorbent,
5 and easily cleanable, or single-use articles shall be utilized. If the
6 producer uses only single-use articles or maintains an adequate
7 supply of clean replacement articles readily available at the site at
8 the time of use, warewashing facilities shall not be required.

9 (c) Approved toilet and handwashing facilities shall be available
10 within 200 feet travel distance of the premises of the certified
11 farmers' market or as approved by the enforcement officer.

12 (d) No live animals, birds, or fowl shall be kept or allowed, and
13 no individual shall bring a live animal, bird, or fowl, within 20
14 feet of any area where food is stored or held for sale within a
15 certified farmers' market. This subdivision does not apply to guide
16 dogs, signal dogs, or service dogs when used in accordance with
17 the federal Americans with Disabilities Act of 1990 (42 U.S.C.
18 Sec. 12101 et seq.), and as provided in Section 36.104 of Title 28
19 of the Code of Federal Regulations. All guide dogs, signal dogs,
20 and service dogs shall be used and properly identified in accordance
21 with Section 54.1 and subdivision (b) of Section 54.2 of the Civil
22 Code, and Sections 30850, 30851, and 30852 of the Food and
23 Agricultural Code.

24 (e) All garbage and refuse shall be stored and disposed of in a
25 manner approved by the enforcement officer.

26 (f) Smoking of cigarettes, cigars, pipe tobacco, and other tobacco
27 products shall not be permitted within 25 feet of the common
28 commerce area comprised of sales personnel and shopping
29 customers of the certified farmers' market.

30 (g) Notwithstanding Chapter 10 (commencing with Section
31 114294) vendors selling food adjacent to, and under the jurisdiction
32 and management of, a certified farmers' market may store, display,
33 and sell from a table or display fixture apart from the mobile
34 facility in a manner approved by the enforcement agency.

35 (h) Temporary food facilities may be operated at a separate
36 community event adjacent to, and in conjunction with, certified
37 farmers' markets. The organization in control of the community
38 event at which these temporary food facilities operate shall comply
39 with Section 114381.1.

1 (i) All harvested, cut, wrapped, or otherwise processed meat,
2 poultry, and fish products shall be from approved sources as set
3 forth in Section 113735, and shall be properly labeled or have
4 documentation present at the point of sale that demonstrates
5 compliance with this requirement. All harvested, cut, wrapped, or
6 otherwise processed meat, poultry, and fish products offered for
7 sale shall be transported, stored, displayed, and maintained at a
8 temperature of 41 degrees Fahrenheit or colder. The temperature
9 holding capabilities of the storage containers used shall be
10 sufficient to maintain safe product temperatures. Storage containers
11 for meat, poultry, and fish products shall be insulated and have
12 interior surfaces that are smooth, nonabsorbent, and easily
13 cleanable. All meat, poultry, and fish products shall be stored in
14 a manner that reduces the risk of cross-contamination.

15 (j) For purposes of this section, “smoking” has the same meaning
16 as in subdivision (c) of Section 22950.5 of the Business and
17 Professions Code.

18 (k) For purposes of this section, “tobacco product” means a
19 product or device as defined in subdivision (d) of Section 22950.5
20 of the Business and Professions Code.

21 ~~SEC. 19.~~

22 *SEC. 18.* Section 118910 of the Health and Safety Code is
23 amended to read:

24 118910. (a) The Legislature declares its intent not to preempt
25 the field of regulation of the smoking of tobacco products. A local
26 governing body may ban completely the smoking of tobacco
27 products, or may regulate smoking of tobacco products in any
28 manner not inconsistent with this article and Article 3 (commencing
29 with Section 118920) or any other provision of state law.

30 (b) For purposes of this section, “smoking” has the same
31 meaning as in subdivision (c) of Section 22950.5 of the Business
32 and Professions Code.

33 (c) For purposes of this section, “tobacco product” means a
34 product or device as defined in subdivision (d) of Section 22950.5
35 of the Business and Professions Code.

36 ~~SEC. 20.~~

37 *SEC. 19.* Section 118925 of the Health and Safety Code is
38 amended to read:

39 118925. (a) (1) It is unlawful for any person to smoke a
40 tobacco product in any vehicle of a passenger stage corporation,

1 the National Railroad Passenger Corporation (Amtrak) except to
2 the extent permitted by federal law, in any aircraft except to the
3 extent permitted by federal law, on a public transportation system,
4 as defined by Section 99211 of the Public Utilities Code, or in any
5 vehicle of an entity receiving any transit assistance from the state.

6 (2) (A) For purposes of this subdivision, “smoke” has the same
7 meaning as in subdivision (c) of Section 22950.5 of the Business
8 and Professions Code.

9 (B) For purposes of this subdivision, “tobacco product” means
10 a product or device as defined in subdivision (d) of Section 22950.5
11 of the Business and Professions Code.

12 (b) It is unlawful for any person to smoke any plant product
13 other than a tobacco product in any vehicle of a passenger stage
14 corporation, the National Railroad Passenger Corporation (Amtrak)
15 except to the extent permitted by federal law, in any aircraft except
16 to the extent permitted by federal law, on a public transportation
17 system, as defined by Section 99211 of the Public Utilities Code,
18 or in any vehicle of an entity receiving any transit assistance from
19 the state.

20 ~~SEC. 21.~~

21 *SEC. 20.* Section 118948 of the Health and Safety Code is
22 amended to read:

23 118948. (a) It is unlawful for a person to smoke a tobacco
24 product in a motor vehicle, whether in motion or at rest, in which
25 there is a minor.

26 (b) For purposes of this section, “smoke” has the same meaning
27 as in subdivision (c) of Section 22950.5 of the Business and
28 Professions Code.

29 (c) For purposes of this section, “tobacco product” means a
30 product or device as defined in subdivision (d) of Section 22950.5
31 of the Business and Professions Code.

32 (d) A violation of this section is an infraction punishable by a
33 fine not exceeding one hundred dollars (\$100) for each violation.

34 ~~SEC. 22.~~

35 *SEC. 21.* Section 119405 of the Health and Safety Code is
36 repealed.

37 ~~SEC. 23.~~

38 *SEC. 22.* Section 119406 is added to the Health and Safety
39 Code, to read:

1 119406. (a) Commencing October 1, 2016, all cartridges for
2 electronic cigarettes and solutions for filling or refilling an
3 electronic cigarette shall be in child-resistant packaging.

4 (b) “Child-resistant packaging” means packaging that meets the
5 specifications in Section 1700.15(b) of, and is tested by the method
6 described in Section 1700.20 of, Title 16 of the Code of Federal
7 Regulations.

8 ~~SEC. 24. Section 6404.5 of the Labor Code is amended to read:~~

9 ~~6404.5. (a) The Legislature finds and declares that regulation~~
10 ~~of smoking in the workplace is a matter of statewide interest and~~
11 ~~concern. It is the intent of the Legislature in enacting this section~~
12 ~~to prohibit the smoking of tobacco products in all (100 percent of)~~
13 ~~enclosed places of employment in this state, as covered by this~~
14 ~~section, thereby eliminating the need of local governments to enact~~
15 ~~workplace smoking restrictions within their respective jurisdictions.~~
16 ~~It is further the intent of the Legislature to create a uniform~~
17 ~~statewide standard to restrict and prohibit the smoking of tobacco~~
18 ~~products in enclosed places of employment, as specified in this~~
19 ~~section, in order to reduce employee exposure to environmental~~
20 ~~tobacco smoke to a level that will prevent anything other than~~
21 ~~insignificantly harmful effects to exposed employees, and also to~~
22 ~~eliminate the confusion and hardship that can result from enactment~~
23 ~~or enforcement of disparate local workplace smoking restrictions.~~
24 ~~Notwithstanding any other provision of this section, it is the intent~~
25 ~~of the Legislature that any area not defined as a “place of~~
26 ~~employment” pursuant to subdivision (d) or in which the smoking~~
27 ~~of tobacco products is not regulated pursuant to subdivision (e)~~
28 ~~shall be subject to local regulation of smoking of tobacco products.~~

29 ~~(b) No employer shall knowingly or intentionally permit, and~~
30 ~~no person shall engage in, the smoking of tobacco products in an~~
31 ~~enclosed space at a place of employment. “Enclosed space”~~
32 ~~includes lobbies, lounges, waiting areas, elevators, stairwells, and~~
33 ~~restrooms that are a structural part of the building and not~~
34 ~~specifically defined in subdivision (d).~~

35 ~~(c) For purposes of this section, an employer who permits any~~
36 ~~nonemployee access to his or her place of employment on a regular~~
37 ~~basis has not acted knowingly or intentionally in violation of this~~
38 ~~section if he or she has taken the following reasonable steps to~~
39 ~~prevent smoking by a nonemployee:~~

40 ~~(1) Posted clear and prominent signs, as follows:~~

1 ~~(A) Where smoking is prohibited throughout the building or~~
2 ~~structure, a sign stating “No smoking” shall be posted at each~~
3 ~~entrance to the building or structure.~~

4 ~~(B) Where smoking is permitted in designated areas of the~~
5 ~~building or structure, a sign stating “Smoking is prohibited except~~
6 ~~in designated areas” shall be posted at each entrance to the building~~
7 ~~or structure.~~

8 ~~(2) Has requested, when appropriate, that a nonemployee who~~
9 ~~is smoking refrain from smoking in the enclosed workplace.~~

10 For purposes of this subdivision, “reasonable steps” does not
11 include (A) the physical ejection of a nonemployee from the place
12 of employment or (B) any requirement for making a request to a
13 nonemployee to refrain from smoking, under circumstances
14 involving a risk of physical harm to the employer or any employee.

15 ~~(d) For purposes of this section, “place of employment” does~~
16 ~~not include any of the following:~~

17 ~~(1) Sixty-five percent of the guestroom accommodations in a~~
18 ~~hotel, motel, or similar transient lodging establishment.~~

19 ~~(2) Areas of the lobby in a hotel, motel, or other similar transient~~
20 ~~lodging establishment designated for smoking by the establishment.~~
21 ~~An establishment may permit smoking in a designated lobby area~~
22 ~~that does not exceed 25 percent of the total floor area of the lobby~~
23 ~~or, if the total area of the lobby is 2,000 square feet or less, that~~
24 ~~does not exceed 50 percent of the total floor area of the lobby. For~~
25 ~~purposes of this paragraph, “lobby” means the common public~~
26 ~~area of an establishment in which registration and other similar or~~
27 ~~related transactions, or both, are conducted and in which the~~
28 ~~establishment’s guests and members of the public typically~~
29 ~~congregate.~~

30 ~~(3) Meeting and banquet rooms in a hotel, motel, other transient~~
31 ~~lodging establishment similar to a hotel or motel, restaurant, or~~
32 ~~public convention center, except while food or beverage functions~~
33 ~~are taking place, including setup, service, and cleanup activities,~~
34 ~~or when the room is being used for exhibit purposes. At times~~
35 ~~when smoking is not permitted in a meeting or banquet room~~
36 ~~pursuant to this paragraph, the establishment may permit smoking~~
37 ~~in corridors and prefunction areas adjacent to and serving the~~
38 ~~meeting or banquet room if no employee is stationed in that~~
39 ~~corridor or area on other than a passing basis.~~

- 1 ~~(4) Retail or wholesale tobacco shops and private smokers’~~
2 ~~lounges. For purposes of this paragraph:~~
3 ~~(A) “Private smokers’ lounge” means any enclosed area in or~~
4 ~~attached to a retail or wholesale tobacco shop that is dedicated to~~
5 ~~the use of tobacco products, including, but not limited to, cigars~~
6 ~~and pipes.~~
7 ~~(B) “Retail or wholesale tobacco shop” means any business~~
8 ~~establishment the main purpose of which is the sale of tobacco~~
9 ~~products, including, but not limited to, cigars, pipe tobacco, and~~
10 ~~smoking accessories.~~
11 ~~(5) Cabs of motortrucks, as defined in Section 410 of the Vehicle~~
12 ~~Code, or truck tractors, as defined in Section 655 of the Vehicle~~
13 ~~Code, if no nonsmoking employees are present.~~
14 ~~(6) Warehouse facilities. For purposes of this paragraph,~~
15 ~~“warehouse facility” means a warehouse facility with more than~~
16 ~~100,000 square feet of total floorspace, and 20 or fewer full-time~~
17 ~~employees working at the facility, but does not include any area~~
18 ~~within a facility that is utilized as office space.~~
19 ~~(7) Gaming clubs, in which smoking is permitted by subdivision~~
20 ~~(f). For purposes of this paragraph, “gaming club” means any~~
21 ~~gaming club, as defined in Section 19802 of the Business and~~
22 ~~Professions Code, or bingo facility, as defined in Section 326.5 of~~
23 ~~the Penal Code, that restricts access to minors under 18 years of~~
24 ~~age.~~
25 ~~(8) Bars and taverns, in which smoking is permitted by~~
26 ~~subdivision (f). For purposes of this paragraph, “bar” or “tavern”~~
27 ~~means a facility primarily devoted to the serving of alcoholic~~
28 ~~beverages for consumption by guests on the premises, in which~~
29 ~~the serving of food is incidental. “Bar or tavern” includes those~~
30 ~~facilities located within a hotel, motel, or other similar transient~~
31 ~~occupancy establishment. However, when located within a building~~
32 ~~in conjunction with another use, including a restaurant, “bar” or~~
33 ~~“tavern” includes only those areas used primarily for the sale and~~
34 ~~service of alcoholic beverages. “Bar” or “tavern” does not include~~
35 ~~the dining areas of a restaurant, regardless of whether alcoholic~~
36 ~~beverages are served therein.~~
37 ~~(9) Theatrical production sites, if smoking is an integral part of~~
38 ~~the story in the theatrical production.~~
39 ~~(10) Medical research or treatment sites, if smoking is integral~~
40 ~~to the research and treatment being conducted.~~

1 ~~(11) Private residences, except for private residences licensed~~
2 ~~as family day care homes, where smoking is prohibited pursuant~~
3 ~~to Section 1596.795 of the Health and Safety Code.~~

4 ~~(12) Patient smoking areas in long-term health care facilities,~~
5 ~~as defined in Section 1418 of the Health and Safety Code.~~

6 ~~(13) Breakrooms designated by employers for smoking, provided~~
7 ~~that all of the following conditions are met:~~

8 ~~(A) Air from the smoking room shall be exhausted directly to~~
9 ~~the outside by an exhaust fan. Air from the smoking room shall~~
10 ~~not be recirculated to other parts of the building.~~

11 ~~(B) The employer shall comply with any ventilation standard~~
12 ~~or other standard utilizing appropriate technology, including, but~~
13 ~~not limited to, mechanical, electronic, and biotechnical systems,~~
14 ~~adopted by the Occupational Safety and Health Standards Board~~
15 ~~or the federal Environmental Protection Agency. If both adopt~~
16 ~~inconsistent standards, the ventilation standards of the Occupational~~
17 ~~Safety and Health Standards Board shall be no less stringent than~~
18 ~~the standards adopted by the federal Environmental Protection~~
19 ~~Agency.~~

20 ~~(C) The smoking room shall be located in a nonwork area where~~
21 ~~no one, as part of his or her work responsibilities, is required to~~
22 ~~enter. For purposes of this subparagraph, “work responsibilities”~~
23 ~~does not include any custodial or maintenance work carried out in~~
24 ~~the breakroom when it is unoccupied.~~

25 ~~(D) There are sufficient nonsmoking breakrooms to~~
26 ~~accommodate nonsmokers.~~

27 ~~(14) Employers with a total of five or fewer employees, either~~
28 ~~full time or part time, may permit smoking where all of the~~
29 ~~following conditions are met:~~

30 ~~(A) The smoking area is not accessible to minors.~~

31 ~~(B) All employees who enter the smoking area consent to permit~~
32 ~~smoking. No one, as part of his or her work responsibilities, shall~~
33 ~~be required to work in an area where smoking is permitted. An~~
34 ~~employer who is determined by the division to have used coercion~~
35 ~~to obtain consent or who has required an employee to work in the~~
36 ~~smoking area shall be subject to the penalty provisions of Section~~
37 ~~6427.~~

38 ~~(C) Air from the smoking area shall be exhausted directly to~~
39 ~~the outside by an exhaust fan. Air from the smoking area shall not~~
40 ~~be recirculated to other parts of the building.~~

1 ~~(D) The employer shall comply with any ventilation standard~~
2 ~~or other standard utilizing appropriate technology, including, but~~
3 ~~not limited to, mechanical, electronic, and biotechnical systems,~~
4 ~~adopted by the Occupational Safety and Health Standards Board~~
5 ~~or the federal Environmental Protection Agency. If both adopt~~
6 ~~inconsistent standards, the ventilation standards of the Occupational~~
7 ~~Safety and Health Standards Board shall be no less stringent than~~
8 ~~the standards adopted by the federal Environmental Protection~~
9 ~~Agency.~~

10 ~~This paragraph shall not be construed to (i) supersede or render~~
11 ~~inapplicable any condition or limitation on smoking areas made~~
12 ~~applicable to specific types of business establishments by any other~~
13 ~~paragraph of this subdivision or (ii) apply in lieu of any otherwise~~
14 ~~applicable paragraph of this subdivision that has become~~
15 ~~inoperative.~~

16 ~~(e) Paragraphs (13) and (14) of subdivision (d) shall not be~~
17 ~~construed to require employers to provide reasonable~~
18 ~~accommodation to smokers, or to provide breakrooms for smokers~~
19 ~~or nonsmokers.~~

20 ~~(f) (1) Except as otherwise provided in this subdivision,~~
21 ~~smoking may be permitted in gaming clubs, as defined in paragraph~~
22 ~~(7) of subdivision (d), and in bars and taverns, as defined in~~
23 ~~paragraph (8) of subdivision (d), until the earlier of the following:~~

24 ~~(A) January 1, 1998.~~

25 ~~(B) The date of adoption of a regulation (i) by the Occupational~~
26 ~~Safety and Health Standards Board reducing the permissible~~
27 ~~employee exposure level to environmental tobacco smoke to a~~
28 ~~level that will prevent anything other than insignificantly harmful~~
29 ~~effects to exposed employees or (ii) by the federal Environmental~~
30 ~~Protection Agency establishing a standard for reduction of~~
31 ~~permissible exposure to environmental tobacco smoke to an~~
32 ~~exposure level that will prevent anything other than insignificantly~~
33 ~~harmful effects to exposed persons.~~

34 ~~(2) If a regulation specified in subparagraph (B) of paragraph~~
35 ~~(1) is adopted on or before January 1, 1998, smoking may thereafter~~
36 ~~be permitted in gaming clubs and in bars and taverns, subject to~~
37 ~~full compliance with, or conformity to, the standard in the~~
38 ~~regulation within two years following the date of adoption of the~~
39 ~~regulation. An employer failing to achieve compliance with, or~~
40 ~~conformity to, the regulation within this two-year period shall~~

1 ~~prohibit smoking in the gaming club, bar, or tavern until~~
2 ~~compliance or conformity is achieved. If the Occupational Safety~~
3 ~~and Health Standards Board and the federal Environmental~~
4 ~~Protection Agency both adopt regulations specified in subparagraph~~
5 ~~(B) of paragraph (1) that are inconsistent, the regulations of the~~
6 ~~Occupational Safety and Health Standards Board shall be no less~~
7 ~~stringent than the regulations of the federal Environmental~~
8 ~~Protection Agency.~~

9 (3) ~~If a regulation specified in subparagraph (B) of paragraph~~
10 ~~(1) is not adopted on or before January 1, 1998, the exemptions~~
11 ~~specified in paragraphs (7) and (8) of subdivision (d) shall become~~
12 ~~inoperative on and after January 1, 1998, until a regulation is~~
13 ~~adopted. Upon adoption of such a regulation on or after January~~
14 ~~1, 1998, smoking may thereafter be permitted in gaming clubs and~~
15 ~~in bars and taverns, subject to full compliance with, or conformity~~
16 ~~to, the standard in the regulation within two years following the~~
17 ~~date of adoption of the regulation. An employer failing to achieve~~
18 ~~compliance with, or conformity to, the regulation within this~~
19 ~~two-year period shall prohibit smoking in the gaming club, bar,~~
20 ~~or tavern until compliance or conformity is achieved. If the~~
21 ~~Occupational Safety and Health Standards Board and the federal~~
22 ~~Environmental Protection Agency both adopt regulations specified~~
23 ~~in subparagraph (B) of paragraph (1) that are inconsistent, the~~
24 ~~regulations of the Occupational Safety and Health Standards Board~~
25 ~~shall be no less stringent than the regulations of the federal~~
26 ~~Environmental Protection Agency.~~

27 (4) ~~From January 1, 1997, to December 31, 1997, inclusive,~~
28 ~~smoking may be permitted in gaming clubs, as defined in paragraph~~
29 ~~(7) of subdivision (d), and in bars and taverns, as defined in~~
30 ~~paragraph (8) of subdivision (d), subject to both of the following~~
31 ~~conditions:~~

32 (A) ~~If practicable, the gaming club or bar or tavern shall~~
33 ~~establish a designated nonsmoking area.~~

34 (B) ~~If feasible, no employee shall be required, in the~~
35 ~~performance of ordinary work responsibilities, to enter any area~~
36 ~~in which smoking is permitted.~~

37 (g) ~~The smoking prohibition set forth in this section shall~~
38 ~~constitute a uniform statewide standard for regulating the smoking~~
39 ~~of tobacco products in enclosed places of employment and shall~~
40 ~~supersede and render unnecessary the local enactment or~~

1 enforcement of local ordinances regulating the smoking of tobacco
2 products in enclosed places of employment. Insofar as the smoking
3 prohibition set forth in this section is applicable to all 100 percent
4 places of employment within this state and, therefore, provides
5 the maximum degree of coverage, the practical effect of this section
6 is to eliminate the need of local governments to enact enclosed
7 workplace smoking restrictions within their respective jurisdictions.

8 (h) Nothing in this section shall prohibit an employer from
9 prohibiting smoking of tobacco products in an enclosed place of
10 employment for any reason.

11 (i) The enactment of local regulation of smoking of tobacco
12 products in enclosed places of employment by local governments
13 shall be suspended only for as long as, and to the extent that, the
14 (100 percent) smoking prohibition provided for in this section
15 remains in effect. In the event this section is repealed or modified
16 by subsequent legislative or judicial action so that the (100 percent)
17 smoking prohibition is no longer applicable to all enclosed places
18 of employment in California, local governments shall have the full
19 right and authority to enforce previously enacted, and to enact and
20 enforce new, restrictions on the smoking of tobacco products in
21 enclosed places of employment within their jurisdictions, including
22 a complete prohibition of smoking. Notwithstanding any other
23 provision of this section, any area not defined as a “place of
24 employment” or in which smoking is not regulated pursuant to
25 subdivision (d) or (e), shall be subject to local regulation of
26 smoking of tobacco products.

27 (j) Any violation of the prohibition set forth in subdivision (b)
28 is an infraction, punishable by a fine not to exceed one hundred
29 dollars (\$100) for a first violation, two hundred dollars (\$200) for
30 a second violation within one year, and five hundred dollars (\$500)
31 for a third and for each subsequent violation within one year. This
32 subdivision shall be enforced by local law enforcement agencies,
33 including, but not limited to, local health departments, as
34 determined by the local governing body.

35 (k) Notwithstanding Section 6309, the division shall not be
36 required to respond to any complaint regarding the smoking of
37 tobacco products in an enclosed space at a place of employment,
38 unless the employer has been found guilty pursuant to subdivision
39 (j) of a third violation of subdivision (b) within the previous year.

1 ~~(l) If any provision of this act or the application thereof to any~~
2 ~~person or circumstances is held invalid, that invalidity shall not~~
3 ~~affect other provisions or applications of the act that can be given~~
4 ~~effect without the invalid provision or application, and to this end~~
5 ~~the provisions of this act are severable.~~

6 ~~(m) For purposes of this section, “smoking” has the same~~
7 ~~meaning as in subdivision (c) of Section 22950.5 of the Business~~
8 ~~and Professions Code.~~

9 ~~(n) For purposes of this section, “tobacco product” means a~~
10 ~~product or device as defined in subdivision (d) of Section 22950.5~~
11 ~~of the Business and Professions Code.~~

12 ~~SEC. 25. Section 308 of the Penal Code is amended to read:~~

13 ~~308. (a) (1) Every person, firm, or corporation that knowingly~~
14 ~~or under circumstances in which it has knowledge, or should~~
15 ~~otherwise have grounds for knowledge, sells, gives, or in any way~~
16 ~~furnishes to another person who is under 18 years of age any~~
17 ~~tobacco, cigarette, or cigarette papers, or blunt wraps, or any other~~
18 ~~preparation of tobacco, or any other instrument or paraphernalia~~
19 ~~that is designed for the smoking or ingestion of tobacco, tobacco~~
20 ~~products, or any controlled substance, is subject to either a criminal~~
21 ~~action for a misdemeanor or to a civil action brought by a city~~
22 ~~attorney, a county counsel, or a district attorney, punishable by a~~
23 ~~fine of two hundred dollars (\$200) for the first offense, five~~
24 ~~hundred dollars (\$500) for the second offense, and one thousand~~
25 ~~dollars (\$1,000) for the third offense.~~

26 ~~Notwithstanding Section 1464 or any other law, 25 percent of~~
27 ~~each civil and criminal penalty collected pursuant to this~~
28 ~~subdivision shall be paid to the office of the city attorney, county~~
29 ~~counsel, or district attorney, whoever is responsible for bringing~~
30 ~~the successful action, and 25 percent of each civil and criminal~~
31 ~~penalty collected pursuant to this subdivision shall be paid to the~~
32 ~~city or county for the administration and cost of the community~~
33 ~~service work component provided in subdivision (b).~~

34 ~~Proof that a defendant, or his or her employee or agent,~~
35 ~~demand, was shown, and reasonably relied upon evidence of~~
36 ~~majority shall be defense to any action brought pursuant to this~~
37 ~~subdivision. Evidence of majority of a person is a facsimile of or~~
38 ~~a reasonable likeness of a document issued by a federal, state,~~
39 ~~county, or municipal government, or subdivision or agency thereof,~~
40 ~~including, but not limited to, a motor vehicle operator’s license, a~~

1 registration certificate issued under the federal Selective Service
2 Act, or an identification card issued to a member of the Armed
3 Forces.

4 For purposes of this section, the person liable for selling or
5 furnishing tobacco products to minors by a tobacco vending
6 machine shall be the person authorizing the installation or
7 placement of the tobacco vending machine upon premises he or
8 she manages or otherwise controls and under circumstances in
9 which he or she has knowledge, or should otherwise have grounds
10 for knowledge, that the tobacco vending machine will be utilized
11 by minors.

12 (2) For purposes of this section, “blunt wraps” means cigar
13 papers or cigar wrappers of all types that are designed for smoking
14 or ingestion of tobacco products and contain less than 50 percent
15 tobacco.

16 (b) Every person under 18 years of age who purchases, receives,
17 or possesses any tobacco, cigarette, or cigarette papers, or any
18 other preparation of tobacco, or any other instrument or
19 paraphernalia that is designed for the smoking of tobacco, tobacco
20 products, or any controlled substance shall, upon conviction, be
21 punished by a fine of seventy-five dollars (\$75) or 30 hours of
22 community service work.

23 (c) Every person, firm, or corporation that sells, or deals in
24 tobacco or any preparation thereof, shall post conspicuously and
25 keep so posted in his, her, or their place of business at each point
26 of purchase the notice required pursuant to subdivision (b) of
27 Section 22952 of the Business and Professions Code, and any
28 person failing to do so shall, upon conviction, be punished by a
29 fine of fifty dollars (\$50) for the first offense, one hundred dollars
30 (\$100) for the second offense, two hundred fifty dollars (\$250) for
31 the third offense, and five hundred dollars (\$500) for the fourth
32 offense and each subsequent violation of this provision, or by
33 imprisonment in a county jail not exceeding 30 days.

34 (d) For purposes of determining the liability of persons, firms,
35 or corporations controlling franchises or business operations in
36 multiple locations for the second and subsequent violations of this
37 section, each individual franchise or business location shall be
38 deemed a separate entity.

39 (e) Notwithstanding subdivision (b), any person under 18 years
40 of age who purchases, receives, or possesses any tobacco, cigarette,

1 or cigarette papers, or any other preparation of tobacco, any other
2 instrument or paraphernalia that is designed for the smoking of
3 tobacco, or tobacco products is immune from prosecution for that
4 purchase, receipt, or possession while participating in either of the
5 following:

6 (1) ~~An enforcement activity that complies with the guidelines~~
7 ~~adopted pursuant to subdivisions (c) and (d) of Section 22952 of~~
8 ~~the Business and Professions Code.~~

9 (2) ~~An activity conducted by the State Department of Public~~
10 ~~Health, a local health department, or a law enforcement agency~~
11 ~~for the purpose of determining or evaluating youth tobacco~~
12 ~~purchase rates.~~

13 (f) ~~It is the Legislature's intent to regulate the subject matter of~~
14 ~~this section. As a result, a city, county, or city and county shall not~~
15 ~~adopt any ordinance or regulation inconsistent with this section.~~

16 (g) ~~For purposes of this section, "smoking" has the same~~
17 ~~meaning as in subdivision (e) of Section 22950.5 of the Business~~
18 ~~and Professions Code.~~

19 (h) ~~For purposes of this section, "tobacco product" means a~~
20 ~~product or device as defined in subdivision (d) of Section 22950.5~~
21 ~~of the Business and Professions Code.~~

22 *SEC. 23. Section 6404.5 of the Labor Code is amended to read:*

23 6404.5. (a) The Legislature finds and declares that regulation
24 of smoking in the workplace is a matter of statewide interest and
25 concern. It is the intent of the Legislature in enacting this section
26 to prohibit the smoking of tobacco products in all (100 percent of)
27 enclosed places of employment in this state, as covered by this
28 section, thereby eliminating the need of local governments to enact
29 workplace smoking restrictions within their respective jurisdictions.
30 It is further the intent of the Legislature to create a uniform
31 statewide standard to restrict and prohibit the smoking of tobacco
32 products in enclosed places of employment, as specified in this
33 section, in order to reduce employee exposure to environmental
34 tobacco smoke to a level that will prevent anything other than
35 insignificantly harmful effects to exposed employees, and also to
36 eliminate the confusion and hardship that can result from enactment
37 or enforcement of disparate local workplace smoking restrictions.
38 Notwithstanding any other provision of this section, it is the intent
39 of the Legislature that an area not defined as a "place of
40 employment" pursuant to subdivision (d) or in which the smoking

1 of tobacco products is not regulated pursuant to subdivision (e) is
2 subject to local regulation of smoking of tobacco products.

3 (b) An employer shall not knowingly or intentionally permit,
4 and a person shall not engage in, the smoking of tobacco products
5 in an enclosed space at a place of employment. “Enclosed space”
6 includes lobbies, lounges, waiting areas, elevators, stairwells, and
7 restrooms that are a structural part of the building and not
8 specifically defined in subdivision (d).

9 (c) For purposes of this section, an employer who permits any
10 nonemployee access to his or her place of employment on a regular
11 basis has not acted knowingly or intentionally in violation of this
12 section if he or she has taken the following reasonable steps to
13 prevent smoking by a nonemployee:

14 (1) Posted clear and prominent signs, as follows:

15 (A) Where smoking is prohibited throughout the building or
16 structure, a sign stating “No smoking” shall be posted at each
17 entrance to the building or structure.

18 (B) Where smoking is permitted in designated areas of the
19 building or structure, a sign stating “Smoking is prohibited except
20 in designated areas” shall be posted at each entrance to the building
21 or structure.

22 (2) Has requested, when appropriate, that a nonemployee who
23 is smoking refrain from smoking in the enclosed workplace.

24 For purposes of this subdivision, “reasonable steps” does not
25 include (A) the physical ejection of a nonemployee from the place
26 of employment or (B) any requirement for making a request to a
27 nonemployee to refrain from smoking, under circumstances
28 involving a risk of physical harm to the employer or any employee.

29 (d) For purposes of this section, “place of employment” does
30 not include any of the following:

31 (1) Sixty-five percent of the guestroom accommodations in a
32 hotel, motel, or similar transient lodging establishment.

33 (2) Areas of the lobby in a hotel, motel, or other similar transient
34 lodging establishment designated for smoking by the establishment.
35 An establishment may permit smoking in a designated lobby area
36 that does not exceed 25 percent of the total floor area of the lobby
37 or, if the total area of the lobby is 2,000 square feet or less, that
38 does not exceed 50 percent of the total floor area of the lobby. For
39 purposes of this paragraph, “lobby” means the common public
40 area of an establishment in which registration and other similar or

1 related transactions, or both, are conducted and in which the
2 establishment's guests and members of the public typically
3 congregate.

4 (3) Meeting and banquet rooms in a hotel, motel, other transient
5 lodging establishment similar to a hotel or motel, restaurant, or
6 public convention center, except while food or beverage functions
7 are taking place, including setup, service, and cleanup activities,
8 or when the room is being used for exhibit purposes. At times
9 when smoking is not permitted in a meeting or banquet room
10 pursuant to this paragraph, the establishment may permit smoking
11 in corridors and prefunction areas adjacent to and serving the
12 meeting or banquet room if no employee is stationed in that
13 corridor or area on other than a passing basis.

14 (4) Retail or wholesale tobacco shops and private smokers'
15 lounges. For purposes of this paragraph:

16 (A) "Private smokers' lounge" means any enclosed area in or
17 attached to a retail or wholesale tobacco shop that is dedicated to
18 the use of tobacco products, including, but not limited to, cigars
19 and pipes.

20 (B) "Retail or wholesale tobacco shop" means any business
21 establishment the main purpose of which is the sale of tobacco
22 products, including, but not limited to, cigars, pipe tobacco, and
23 smoking accessories.

24 (5) Cabs of motortrucks, as defined in Section 410 of the Vehicle
25 Code, or truck tractors, as defined in Section 655 of the Vehicle
26 Code, if nonsmoking employees are not present.

27 (6) Warehouse facilities. For purposes of this paragraph,
28 "warehouse facility" means a warehouse facility with more than
29 100,000 square feet of total floorspace, and 20 or fewer full-time
30 employees working at the facility, but does not include any area
31 within a facility that is utilized as office space.

32 (7) Gaming clubs, in which smoking is permitted by subdivision
33 (f). For purposes of this paragraph, "gaming club" means any
34 gaming club, as defined in Section 19802 of the Business and
35 Professions Code, or bingo facility, as defined in Section 326.5 of
36 the Penal Code, that restricts access to minors under 18 years of
37 age.

38 (8) Bars and taverns, in which smoking is permitted by
39 subdivision (f). For purposes of this paragraph, "bar" or "tavern"
40 means a facility primarily devoted to the serving of alcoholic

1 beverages for consumption by guests on the premises, in which
 2 the serving of food is incidental. “Bar or tavern” includes those
 3 facilities located within a hotel, motel, or other similar transient
 4 occupancy establishment. However, when located within a building
 5 in conjunction with another use, including a restaurant, “bar” or
 6 “tavern” includes only those areas used primarily for the sale and
 7 service of alcoholic beverages. “Bar” or “tavern” does not include
 8 the dining areas of a restaurant, regardless of whether alcoholic
 9 beverages are served therein.

10 (9) Theatrical production sites, if smoking is an integral part of
 11 the story in the theatrical production.

12 (10) Medical research or treatment sites, if smoking is integral
 13 to the research and treatment being conducted.

14 (11) Private residences, except for private residences licensed
 15 as family day care homes where smoking is prohibited pursuant
 16 to Section 1596.795 of the Health and Safety Code.

17 (12) Patient smoking areas in long-term health care facilities,
 18 as defined in Section 1418 of the Health and Safety Code.

19 (13) Breakrooms designated by employers for smoking, provided
 20 that all of the following conditions are met:

21 (A) Air from the smoking room shall be exhausted directly to
 22 the outside by an exhaust fan. Air from the smoking room shall
 23 not be recirculated to other parts of the building.

24 (B) The employer shall comply with any ventilation standard
 25 or other standard utilizing appropriate technology, including, but
 26 not limited to, mechanical, electronic, and biotechnical systems,
 27 adopted by the Occupational Safety and Health Standards Board
 28 or the federal Environmental Protection Agency. If both adopt
 29 inconsistent standards, the ventilation standards of the Occupational
 30 Safety and Health Standards Board shall be no less stringent than
 31 the standards adopted by the federal Environmental Protection
 32 Agency.

33 (C) The smoking room shall be located in a nonwork area where
 34 no one, as part of his or her work responsibilities, is required to
 35 enter. For purposes of this subparagraph, “work responsibilities”
 36 does not include any custodial or maintenance work carried out in
 37 the breakroom when it is unoccupied.

38 (D) There are sufficient nonsmoking breakrooms to
 39 accommodate nonsmokers.

1 (14) Employers with a total of five or fewer employees, either
2 full time or part time, may permit smoking where all of the
3 following conditions are met:

4 (A) The smoking area is not accessible to minors.

5 (B) All employees who enter the smoking area consent to permit
6 smoking. No one, as part of his or her work responsibilities, shall
7 be required to work in an area where smoking is permitted. An
8 employer who is determined by the division to have used coercion
9 to obtain consent or who has required an employee to work in the
10 smoking area shall be subject to the penalty provisions of Section
11 6427.

12 (C) Air from the smoking area shall be exhausted directly to
13 the outside by an exhaust fan. Air from the smoking area shall not
14 be recirculated to other parts of the building.

15 (D) The employer shall comply with any ventilation standard
16 or other standard utilizing appropriate technology, including, but
17 not limited to, mechanical, electronic, and biotechnical systems,
18 adopted by the Occupational Safety and Health Standards Board
19 or the federal Environmental Protection Agency. If both adopt
20 inconsistent standards, the ventilation standards of the Occupational
21 Safety and Health Standards Board shall be no less stringent than
22 the standards adopted by the federal Environmental Protection
23 Agency.

24 This paragraph shall not be construed to (i) supersede or render
25 inapplicable any condition or limitation on smoking areas made
26 applicable to specific types of business establishments by any other
27 paragraph of this subdivision or (ii) apply in lieu of any otherwise
28 applicable paragraph of this subdivision that has become
29 inoperative.

30 (e) Paragraphs (13) and (14) of subdivision (d) shall not be
31 construed to require employers to provide reasonable
32 accommodation to smokers, or to provide breakrooms for smokers
33 or nonsmokers.

34 (f) (1) Except as otherwise provided in this subdivision,
35 smoking may be permitted in gaming clubs, as defined in paragraph
36 (7) of subdivision (d), and in bars and taverns, as defined in
37 paragraph (8) of subdivision (d), until the earlier of the following:

38 (A) January 1, 1998.

39 (B) The date of adoption of a regulation (i) by the Occupational
40 Safety and Health Standards Board reducing the permissible

1 employee exposure level to environmental tobacco smoke to a
2 level that will prevent anything other than insignificantly harmful
3 effects to exposed employees or (ii) by the federal Environmental
4 Protection Agency establishing a standard for reduction of
5 permissible exposure to environmental tobacco smoke to an
6 exposure level that will prevent anything other than insignificantly
7 harmful effects to exposed persons.

8 (2) If a regulation specified in subparagraph (B) of paragraph
9 (1) is adopted on or before January 1, 1998, smoking may thereafter
10 be permitted in gaming clubs and in bars and taverns, subject to
11 full compliance with, or conformity to, the standard in the
12 regulation within two years following the date of adoption of the
13 regulation. An employer failing to achieve compliance with, or
14 conformity to, the regulation within this two-year period shall
15 prohibit smoking in the gaming club, bar, or tavern until
16 compliance or conformity is achieved. If the Occupational Safety
17 and Health Standards Board and the federal Environmental
18 Protection Agency both adopt regulations specified in subparagraph
19 (B) of paragraph (1) that are inconsistent, the regulations of the
20 Occupational Safety and Health Standards Board shall be no less
21 stringent than the regulations of the federal Environmental
22 Protection Agency.

23 (3) If a regulation specified in subparagraph (B) of paragraph
24 (1) is not adopted on or before January 1, 1998, the exemptions
25 specified in paragraphs (7) and (8) of subdivision (d) shall become
26 inoperative on and after January 1, 1998, until a regulation is
27 adopted. Upon adoption of such a regulation on or after January
28 1, 1998, smoking may thereafter be permitted in gaming clubs and
29 in bars and taverns, subject to full compliance with, or conformity
30 to, the standard in the regulation within two years following the
31 date of adoption of the regulation. An employer failing to achieve
32 compliance with, or conformity to, the regulation within this
33 two-year period shall prohibit smoking in the gaming club, bar,
34 or tavern until compliance or conformity is achieved. If the
35 Occupational Safety and Health Standards Board and the federal
36 Environmental Protection Agency both adopt regulations specified
37 in subparagraph (B) of paragraph (1) that are inconsistent, the
38 regulations of the Occupational Safety and Health Standards Board
39 shall be no less stringent than the regulations of the federal
40 Environmental Protection Agency.

1 (4) From January 1, 1997, to December 31, 1997, inclusive,
2 smoking may be permitted in gaming clubs, as defined in paragraph
3 (7) of subdivision (d), and in bars and taverns, as defined in
4 paragraph (8) of subdivision (d), subject to both of the following
5 conditions:

6 (A) If practicable, the gaming club or bar or tavern shall
7 establish a designated nonsmoking area.

8 (B) If feasible, an employee shall not be required, in the
9 performance of ordinary work responsibilities, to enter any area
10 in which smoking is permitted.

11 (g) The smoking prohibition set forth in this section constitutes
12 a uniform statewide standard for regulating the smoking of tobacco
13 products in enclosed places of employment and supersedes and
14 render unnecessary the local enactment or enforcement of local
15 ordinances regulating the smoking of tobacco products in enclosed
16 places of employment. Insofar as the smoking prohibition set forth
17 in this section is applicable to all ~~(100-percent)~~ (100 percent) places
18 of employment within this state and, therefore, provides the
19 maximum degree of coverage, the practical effect of this section
20 is to eliminate the need of local governments to enact enclosed
21 workplace smoking restrictions within their respective jurisdictions.

22 (h) This section does not prohibit an employer from prohibiting
23 smoking of *tobacco products* in an enclosed place of employment
24 for any reason.

25 (i) The enactment of local regulation of smoking of tobacco
26 products in enclosed places of employment by local governments
27 shall be suspended only for as long as, and to the extent that, the
28 ~~(100-percent)~~ (100 percent) smoking prohibition provided for in
29 this section remains in effect. In the event this section is repealed
30 or modified by subsequent legislative or judicial action so that the
31 ~~(100-percent)~~ (100 percent) smoking prohibition is no longer
32 applicable to all enclosed places of employment in California,
33 local governments shall have the full right and authority to enforce
34 previously enacted, and to enact and enforce new, restrictions on
35 the smoking of tobacco products in enclosed places of employment
36 within their jurisdictions, including a complete prohibition of
37 smoking. Notwithstanding any other provision of this section, an
38 area not defined as a “place of employment” or in which smoking
39 is not regulated pursuant to subdivision (d) or (e), is subject to
40 local regulation of smoking of tobacco products.

1 (j) A violation of the prohibition set forth in subdivision (b) is
2 an infraction, punishable by a fine not to exceed one hundred
3 dollars (\$100) for a first violation, two hundred dollars (\$200) for
4 a second violation within one year, and five hundred dollars (\$500)
5 for a third and for each subsequent violation within one year. This
6 subdivision shall be enforced by local law enforcement agencies,
7 including, but not limited to, local health departments, as
8 determined by the local governing body.

9 (k) Notwithstanding Section 6309, the division shall not be
10 required to respond to any complaint regarding the smoking of
11 tobacco products in an enclosed space at a place of employment,
12 unless the employer has been found guilty pursuant to subdivision
13 (j) of a third violation of subdivision (b) within the previous year.

14 (l) If a provision of this act or the application thereof to any
15 person or circumstances is held invalid, that invalidity shall not
16 affect other provisions or applications of the act that can be given
17 effect without the invalid provision or application, and to this end
18 the provisions of this act are severable.

19 (m) *For purposes of this section, “smoking” has the same*
20 *meaning as in subdivision (c) of Section 22950.5 of the Business*
21 *and Professions Code.*

22 (n) *For purposes of this section, “tobacco product” means a*
23 *product or device as defined in subdivision (d) of Section 22950.5*
24 *of the Business and Professions Code.*

25 *SEC. 23.5. Section 6404.5 of the Labor Code is amended to*
26 *read:*

27 6404.5. (a) The Legislature finds and declares that regulation
28 of smoking in the workplace is a matter of statewide interest and
29 concern. It is the intent of the Legislature in enacting this section
30 to prohibit the smoking of tobacco products in all (100 percent of)
31 enclosed places of employment in this state, as covered by this
32 section, thereby eliminating the need of local governments to enact
33 workplace smoking restrictions within their respective jurisdictions.
34 It is further the intent of the Legislature to create a uniform
35 statewide standard to restrict and prohibit the smoking of tobacco
36 products in enclosed places of employment, as specified in this
37 section, in order to reduce employee exposure to environmental
38 tobacco smoke to a level that will prevent anything other than
39 insignificantly harmful effects to exposed employees, and also to
40 eliminate the confusion and hardship that can result from enactment

1 or enforcement of disparate local workplace smoking restrictions.
2 Notwithstanding any other provision of this section, it is the intent
3 of the Legislature that an area not defined as a “place of
4 employment” pursuant to subdivision (d) or in which the smoking
5 of tobacco products is not regulated pursuant to subdivision (e) is
6 subject to local regulation of smoking of tobacco products.

7 ~~(b) An employer shall not knowingly or intentionally permit,~~
8 ~~and a person shall not engage in, the smoking of tobacco products~~
9 ~~in an enclosed space at a place of employment. For purposes of~~
10 ~~this section, an “owner-operated business” shall mean a business~~
11 ~~having no employees, independent contractors, or volunteers, in~~
12 ~~which the owner-operator of the business is the only worker.~~
13 ~~“Enclosed space” includes covered parking lots, lobbies, lounges,~~
14 ~~waiting areas, elevators, stairwells, and restrooms that are a~~
15 ~~structural part of the building and not specifically defined in~~
16 ~~subdivision (d). (e).~~

17 *(c) An employer or owner-operator of an owner-operated*
18 *business shall not knowingly or intentionally permit, and a person*
19 *shall not engage in, the smoking of tobacco products at a place of*
20 *employment or in an enclosed space.*

21 ~~(e)~~

22 *(d) For purposes of this section, an employer or owner-operator*
23 *of an owner-operated business who permits any nonemployee*
24 *access to his or her place of employment or owner-operated*
25 *business on a regular basis has not acted knowingly or intentionally*
26 *in violation of this section if he or she has taken the following*
27 *reasonable steps to prevent smoking by a nonemployee:*

28 *(1) Posted clear and prominent signs, as follows:*

29 *(A) Where smoking is prohibited throughout the building or*
30 *structure, a sign stating “No smoking” shall be posted at each*
31 *entrance to the building or structure.*

32 *(B) Where smoking is permitted in designated areas of the*
33 *building or structure, a sign stating “Smoking is prohibited except*
34 *in designated areas” shall be posted at each entrance to the building*
35 *or structure.*

36 *(2) Has requested, when appropriate, that a nonemployee who*
37 *is smoking refrain from smoking in the enclosed workplace.*
38 *workplace or owner-operated business.*

39 For purposes of this subdivision, “reasonable steps” does not
40 include (A) the physical ejection of a nonemployee from the place

1 of employment or *owner-operated business* or (B) any requirement
 2 for making a request to a nonemployee to refrain from smoking,
 3 under circumstances involving a risk of physical harm to the
 4 employer or any ~~employee~~: *employee or owner-operator*.

5 (d)

6 (e) For purposes of this section, “place of employment” does
 7 not include any of the following:

8 (1) ~~Sixty-five~~ *Twenty* percent of the guestroom accommodations
 9 in a hotel, motel, or similar transient lodging establishment.

10 (2) ~~Areas of the lobby in a hotel, motel, or other similar transient~~
 11 ~~lodging establishment designated for smoking by the establishment.~~
 12 ~~An establishment may permit smoking in a designated lobby area~~
 13 ~~that does not exceed 25 percent of the total floor area of the lobby~~
 14 ~~or, if the total area of the lobby is 2,000 square feet or less, that~~
 15 ~~does not exceed 50 percent of the total floor area of the lobby. For~~
 16 ~~purposes of this paragraph, “lobby” means the common public~~
 17 ~~area of an establishment in which registration and other similar or~~
 18 ~~related transactions, or both, are conducted and in which the~~
 19 ~~establishment’s guests and members of the public typically~~
 20 ~~congregate.~~

21 (3) ~~Meeting and banquet rooms in a hotel, motel, other transient~~
 22 ~~lodging establishment similar to a hotel or motel, restaurant, or~~
 23 ~~public convention center, except while food or beverage functions~~
 24 ~~are taking place, including setup, service, and cleanup activities,~~
 25 ~~or when the room is being used for exhibit purposes. At times~~
 26 ~~when smoking is not permitted in a meeting or banquet room~~
 27 ~~pursuant to this paragraph, the establishment may permit smoking~~
 28 ~~in corridors and prefunction areas adjacent to and serving the~~
 29 ~~meeting or banquet room if no employee is stationed in that~~
 30 ~~corridor or area on other than a passing basis.~~

31 (4)

32 (2) Retail or wholesale tobacco shops and private smokers’
 33 lounges. For purposes of this paragraph:

34 (A) “Private smokers’ lounge” means any enclosed area in or
 35 attached to a retail or wholesale tobacco shop that is dedicated to
 36 the use of tobacco products, including, but not limited to, cigars
 37 and pipes.

38 (B) “Retail or wholesale tobacco shop” means any business
 39 ~~establishment~~ *establishment*, the main purpose of which is the sale

1 of tobacco products, including, but not limited to, cigars, pipe
2 tobacco, and smoking accessories.

3 ~~(5)~~

4 (3) Cabs of motortrucks, as defined in Section 410 of the Vehicle
5 Code, or truck tractors, as defined in Section 655 of the Vehicle
6 Code, if nonsmoking employees are not present.

7 ~~(6) Warehouse facilities. For purposes of this paragraph,~~
8 ~~“warehouse facility” means a warehouse facility with more than~~
9 ~~100,000 square feet of total floorspace, and 20 or fewer full-time~~
10 ~~employees working at the facility, but does not include any area~~
11 ~~within a facility that is utilized as office space.~~

12 ~~(7) Gaming clubs, in which smoking is permitted by subdivision~~
13 ~~(f). For purposes of this paragraph, “gaming club” means any~~
14 ~~gaming club, as defined in Section 19802 of the Business and~~
15 ~~Professions Code, or bingo facility, as defined in Section 326.5 of~~
16 ~~the Penal Code, that restricts access to minors under 18 years of~~
17 ~~age.~~

18 ~~(8) Bars and taverns, in which smoking is permitted by~~
19 ~~subdivision (f). For purposes of this paragraph, “bar” or “tavern”~~
20 ~~means a facility primarily devoted to the serving of alcoholic~~
21 ~~beverages for consumption by guests on the premises, in which~~
22 ~~the serving of food is incidental. “Bar or tavern” includes those~~
23 ~~facilities located within a hotel, motel, or other similar transient~~
24 ~~occupancy establishment. However, when located within a building~~
25 ~~in conjunction with another use, including a restaurant, “bar” or~~
26 ~~“tavern” includes only those areas used primarily for the sale and~~
27 ~~service of alcoholic beverages. “Bar” or “tavern” does not include~~
28 ~~the dining areas of a restaurant, regardless of whether alcoholic~~
29 ~~beverages are served therein.~~

30 ~~(9)~~

31 (4) Theatrical production sites, if smoking is an integral part of
32 the story in the theatrical production.

33 ~~(10)~~

34 (5) Medical research or treatment sites, if smoking is integral
35 to the research and treatment being conducted.

36 ~~(11)~~

37 (6) Private residences, except for private residences licensed as
38 family day care homes where smoking is prohibited pursuant to
39 Section 1596.795 of the Health and Safety Code.

40 ~~(12)~~

1 (7) Patient smoking areas in long-term health care facilities, as
2 defined in Section 1418 of the Health and Safety Code.

3 ~~(13) Breakrooms designated by employers for smoking, provided~~
4 ~~that all of the following conditions are met:~~

5 ~~(A) Air from the smoking room shall be exhausted directly to~~
6 ~~the outside by an exhaust fan. Air from the smoking room shall~~
7 ~~not be recirculated to other parts of the building.~~

8 ~~(B) The employer shall comply with any ventilation standard~~
9 ~~or other standard utilizing appropriate technology, including, but~~
10 ~~not limited to, mechanical, electronic, and biotechnical systems,~~
11 ~~adopted by the Occupational Safety and Health Standards Board~~
12 ~~or the federal Environmental Protection Agency. If both adopt~~
13 ~~inconsistent standards, the ventilation standards of the Occupational~~
14 ~~Safety and Health Standards Board shall be no less stringent than~~
15 ~~the standards adopted by the federal Environmental Protection~~
16 ~~Agency.~~

17 ~~(C) The smoking room shall be located in a nonwork area where~~
18 ~~no one, as part of his or her work responsibilities, is required to~~
19 ~~enter. For purposes of this subparagraph, “work responsibilities”~~
20 ~~does not include any custodial or maintenance work carried out in~~
21 ~~the breakroom when it is unoccupied.~~

22 ~~(D) There are sufficient nonsmoking breakrooms to~~
23 ~~accommodate nonsmokers.~~

24 ~~(14) Employers with a total of five or fewer employees, either~~
25 ~~full time or part time, may permit smoking where all of the~~
26 ~~following conditions are met:~~

27 ~~(A) The smoking area is not accessible to minors.~~

28 ~~(B) All employees who enter the smoking area consent to permit~~
29 ~~smoking. No one, as part of his or her work responsibilities, shall~~
30 ~~be required to work in an area where smoking is permitted. An~~
31 ~~employer who is determined by the division to have used coercion~~
32 ~~to obtain consent or who has required an employee to work in the~~
33 ~~smoking area shall be subject to the penalty provisions of Section~~
34 ~~6427.~~

35 ~~(C) Air from the smoking area shall be exhausted directly to~~
36 ~~the outside by an exhaust fan. Air from the smoking area shall not~~
37 ~~be recirculated to other parts of the building.~~

38 ~~(D) The employer shall comply with any ventilation standard~~
39 ~~or other standard utilizing appropriate technology, including, but~~
40 ~~not limited to, mechanical, electronic, and biotechnical systems,~~

1 adopted by the Occupational Safety and Health Standards Board
2 or the federal Environmental Protection Agency. If both adopt
3 inconsistent standards, the ventilation standards of the Occupational
4 Safety and Health Standards Board shall be no less stringent than
5 the standards adopted by the federal Environmental Protection
6 Agency.

7 This paragraph shall not be construed to (i) supersede or render
8 inapplicable any condition or limitation on smoking areas made
9 applicable to specific types of business establishments by any other
10 paragraph of this subdivision or (ii) apply in lieu of any otherwise
11 applicable paragraph of this subdivision that has become
12 inoperative.

13 (e) Paragraphs (13) and (14) of subdivision (d) shall not be
14 construed to require employers to provide reasonable
15 accommodation to smokers, or to provide breakrooms for smokers
16 or nonsmokers.

17 (f) (1) Except as otherwise provided in this subdivision,
18 smoking may be permitted in gaming clubs, as defined in paragraph
19 (7) of subdivision (d), and in bars and taverns, as defined in
20 paragraph (8) of subdivision (d), until the earlier of the following:

21 (A) January 1, 1998.

22 (B) The date of adoption of a regulation (i) by the Occupational
23 Safety and Health Standards Board reducing the permissible
24 employee exposure level to environmental tobacco smoke to a
25 level that will prevent anything other than insignificantly harmful
26 effects to exposed employees or (ii) by the federal Environmental
27 Protection Agency establishing a standard for reduction of
28 permissible exposure to environmental tobacco smoke to an
29 exposure level that will prevent anything other than insignificantly
30 harmful effects to exposed persons.

31 (2) If a regulation specified in subparagraph (B) of paragraph
32 (1) is adopted on or before January 1, 1998, smoking may thereafter
33 be permitted in gaming clubs and in bars and taverns, subject to
34 full compliance with, or conformity to, the standard in the
35 regulation within two years following the date of adoption of the
36 regulation. An employer failing to achieve compliance with, or
37 conformity to, the regulation within this two-year period shall
38 prohibit smoking in the gaming club, bar, or tavern until
39 compliance or conformity is achieved. If the Occupational Safety
40 and Health Standards Board and the federal Environmental

1 Protection Agency both adopt regulations specified in subparagraph
 2 (B) of paragraph (1) that are inconsistent, the regulations of the
 3 Occupational Safety and Health Standards Board shall be no less
 4 stringent than the regulations of the federal Environmental
 5 Protection Agency.

6 ~~(3) If a regulation specified in subparagraph (B) of paragraph~~
 7 ~~(1) is not adopted on or before January 1, 1998, the exemptions~~
 8 ~~specified in paragraphs (7) and (8) of subdivision (d) shall become~~
 9 ~~inoperative on and after January 1, 1998, until a regulation is~~
 10 ~~adopted. Upon adoption of such a regulation on or after January~~
 11 ~~1, 1998, smoking may thereafter be permitted in gaming clubs and~~
 12 ~~in bars and taverns, subject to full compliance with, or conformity~~
 13 ~~to, the standard in the regulation within two years following the~~
 14 ~~date of adoption of the regulation. An employer failing to achieve~~
 15 ~~compliance with, or conformity to, the regulation within this~~
 16 ~~two-year period shall prohibit smoking in the gaming club, bar,~~
 17 ~~or tavern until compliance or conformity is achieved. If the~~
 18 ~~Occupational Safety and Health Standards Board and the federal~~
 19 ~~Environmental Protection Agency both adopt regulations specified~~
 20 ~~in subparagraph (B) of paragraph (1) that are inconsistent, the~~
 21 ~~regulations of the Occupational Safety and Health Standards Board~~
 22 ~~shall be no less stringent than the regulations of the federal~~
 23 ~~Environmental Protection Agency.~~

24 ~~(4) From January 1, 1997, to December 31, 1997, inclusive,~~
 25 ~~smoking may be permitted in gaming clubs, as defined in paragraph~~
 26 ~~(7) of subdivision (d), and in bars and taverns, as defined in~~
 27 ~~paragraph (8) of subdivision (d), subject to both of the following~~
 28 ~~conditions:~~

29 ~~(A) If practicable, the gaming club or bar or tavern shall~~
 30 ~~establish a designated nonsmoking area.~~

31 ~~(B) If feasible, an employee shall not be required, in the~~
 32 ~~performance of ordinary work responsibilities, to enter any area~~
 33 ~~in which smoking is permitted.~~

34 ~~(g)~~
 35 ~~(f) The smoking prohibition set forth in this section constitutes~~
 36 ~~a uniform statewide standard for regulating the smoking of tobacco~~
 37 ~~products in enclosed places of employment and *owner-operated*~~
 38 ~~*businesses and* supersedes and ~~render renders~~ unnecessary the~~
 39 ~~local enactment or enforcement of local ordinances regulating the~~
 40 ~~smoking of tobacco products in enclosed places of employment.~~

1 *employment and owner-operated businesses.* Insofar as the smoking
2 prohibition set forth in this section is applicable to all ~~(100-percent)~~
3 *(100 percent)* places of employment *and owner-operated*
4 *businesses* within this state and, therefore, provides the maximum
5 degree of coverage, the practical effect of this section is to
6 eliminate the need of local governments to enact enclosed
7 workplace smoking restrictions within their respective jurisdictions.

8 ~~(h)~~

9 *(g)* This section does not prohibit an employer *or*
10 *owner-operator of an owner-operated business* from prohibiting
11 smoking *of tobacco products* in an enclosed place of employment
12 *or owner-operated business* for any reason.

13 ~~(i)~~

14 *(h)* The enactment of local regulation of smoking of tobacco
15 products in enclosed places of employment *or owner-operated*
16 *businesses* by local governments shall be suspended only for as
17 long as, and to the extent that, the ~~(100-percent)~~ *(100 percent)*
18 smoking prohibition provided for in this section remains in effect.
19 In the event this section is repealed or modified by subsequent
20 legislative or judicial action so that the ~~(100-percent)~~ *(100 percent)*
21 smoking prohibition is no longer applicable to all enclosed places
22 of employment *and owner-operated businesses* in California, local
23 governments shall have the full right and authority to enforce
24 previously enacted, and to enact and enforce new, restrictions on
25 the smoking of tobacco products in enclosed places of employment
26 *and owner-operated businesses* within their jurisdictions, including
27 a complete prohibition of smoking. Notwithstanding any other
28 provision of this section, an area not defined as a “place of
29 employment” or in which smoking is not regulated pursuant to
30 subdivision ~~(d)~~ *or (e)*, is subject to local regulation of smoking of
31 tobacco products.

32 ~~(j)~~

33 *(i)* A violation of the prohibition set forth in subdivision ~~(b)~~ *(c)*
34 is an infraction, punishable by a fine not to exceed one hundred
35 dollars (\$100) for a first violation, two hundred dollars (\$200) for
36 a second violation within one year, and five hundred dollars (\$500)
37 for a third and for each subsequent violation within one year. This
38 subdivision shall be enforced by local law enforcement agencies,
39 including, but not limited to, local health departments, as
40 determined by the local governing body.

1 ~~(k)~~
 2 (j) Notwithstanding Section 6309, the division ~~shall is not be~~
 3 required to respond to any complaint regarding the smoking of
 4 tobacco products in an enclosed space at a place of employment,
 5 unless the employer has been found guilty pursuant to subdivision
 6 ~~(j)~~ (i) of a third violation of subdivision ~~(b)~~ (c) within the previous
 7 year.

8 ~~(t)~~
 9 (k) If a provision of this ~~act~~ section or the application thereof
 10 to any person or circumstances is held invalid, that invalidity shall
 11 not affect other provisions or applications of the ~~act~~ section that
 12 can be given effect without the invalid provision or application,
 13 and to this end the provisions of this ~~act~~ section are severable.

14 (l) For purposes of this section, “smoking” has the same
 15 meaning as in subdivision (c) of Section 22950.5 of the Business
 16 and Professions Code.

17 (m) For purposes of this section, “tobacco product” means a
 18 product or device as defined in subdivision (d) of Section 22950.5
 19 of the Business and Professions Code.

20 SEC. 24. Section 308 of the Penal Code is amended to read:

21 308. (a) (1) Every person, firm, or corporation that knowingly
 22 or under circumstances in which it has knowledge, or should
 23 otherwise have grounds for knowledge, sells, gives, or in any way
 24 furnishes to another person who is under ~~the age of~~ 18 years of
 25 age any tobacco, cigarette, or cigarette papers, or blunt wraps, or
 26 any other preparation of tobacco, or any other instrument or
 27 paraphernalia that is designed for the smoking or ingestion of
 28 tobacco, ~~products prepared from tobacco,~~ tobacco products, or
 29 any controlled substance, is subject to either a criminal action for
 30 a misdemeanor or to a civil action brought by a city attorney, a
 31 county counsel, or a district attorney, punishable by a fine of two
 32 hundred dollars (\$200) for the first offense, five hundred dollars
 33 (\$500) for the second offense, and one thousand dollars (\$1,000)
 34 for the third offense.

35 Notwithstanding Section 1464 or any other law, 25 percent of
 36 each civil and criminal penalty collected pursuant to this
 37 subdivision shall be paid to the office of the city attorney, county
 38 counsel, or district attorney, whoever is responsible for bringing
 39 the successful action, and 25 percent of each civil and criminal
 40 penalty collected pursuant to this subdivision shall be paid to the

1 city or county for the administration and cost of the community
2 service work component provided in subdivision (b).

3 Proof that a defendant, or his or her employee or agent,
4 demanded, was shown, and reasonably relied upon evidence of
5 majority shall be defense to any action brought pursuant to this
6 subdivision. Evidence of majority of a person is a facsimile of or
7 a reasonable likeness of a document issued by a federal, state,
8 county, or municipal government, or subdivision or agency thereof,
9 including, but not limited to, a motor vehicle operator's license, a
10 registration certificate issued under the federal Selective Service
11 Act, or an identification card issued to a member of the Armed
12 Forces.

13 For purposes of this section, the person liable for selling or
14 furnishing tobacco products to minors by a tobacco vending
15 machine shall be the person authorizing the installation or
16 placement of the tobacco vending machine upon premises he or
17 she manages or otherwise controls and under circumstances in
18 which he or she has knowledge, or should otherwise have grounds
19 for knowledge, that the tobacco vending machine will be utilized
20 by minors.

21 (2) For purposes of this section, "blunt wraps" means cigar
22 papers or cigar wrappers of all types that are designed for smoking
23 or ingestion of tobacco products and contain less than 50 percent
24 tobacco.

25 (b) Every person ~~under the age of~~ 18 years *of age* who
26 purchases, receives, or possesses any tobacco, cigarette, or cigarette
27 papers, or any other preparation of tobacco, or any other instrument
28 or paraphernalia that is designed for the smoking of tobacco,
29 ~~products prepared from tobacco,~~ *tobacco products*, or any
30 controlled substance shall, upon conviction, be punished by a fine
31 of seventy-five dollars (\$75) or 30 hours of community service
32 work.

33 (c) Every person, firm, or corporation that sells, or deals in
34 tobacco or any preparation thereof, shall post conspicuously and
35 keep so posted in his, her, or their place of business at each point
36 of purchase the notice required pursuant to subdivision (b) of
37 Section 22952 of the Business and Professions Code, and any
38 person failing to do so shall, upon conviction, be punished by a
39 fine of fifty dollars (\$50) for the first offense, one hundred dollars
40 (\$100) for the second offense, two hundred fifty dollars (\$250) for

1 the third offense, and five hundred dollars (\$500) for the fourth
 2 offense and each subsequent violation of this provision, or by
 3 imprisonment in a county jail not exceeding 30 days.

4 (d) For purposes of determining the liability of persons, firms,
 5 or corporations controlling franchises or business operations in
 6 multiple locations for the second and subsequent violations of this
 7 section, each individual franchise or business location shall be
 8 deemed a separate entity.

9 (e) Notwithstanding subdivision (b), any person under 18 years
 10 of age who purchases, receives, or possesses any tobacco, cigarette,
 11 or cigarette papers, or any other preparation of tobacco, any other
 12 instrument or paraphernalia that is designed for the smoking of
 13 tobacco, or ~~products prepared from tobacco~~ *tobacco products* is
 14 immune from prosecution for that purchase, receipt, or possession
 15 while participating in either of the following:

16 (1) An enforcement activity that complies with the guidelines
 17 adopted pursuant to subdivisions (c) and (d) of Section 22952 of
 18 the Business and Professions Code.

19 (2) An activity conducted by the State Department of Public
 20 Health, a local health department, or a law enforcement agency
 21 for the purpose of determining or evaluating youth tobacco
 22 purchase rates.

23 (f) It is the Legislature's intent to regulate the subject matter of
 24 this section. As a result, a city, county, or city and county shall not
 25 adopt any ordinance or regulation inconsistent with this section.

26 (g) *For purposes of this section, "smoking" has the same*
 27 *meaning as in subdivision (c) of Section 22950.5 of the Business*
 28 *and Professions Code.*

29 (h) *For purposes of this section, "tobacco products" means a*
 30 *product or device as defined in subdivision (d) of Section 22950.5*
 31 *of the Business and Professions Code.*

32 *SEC. 24.5. Section 308 of the Penal Code is amended to read:*

33 308. (a) (1) (A) Every person, firm, or corporation that
 34 knowingly or under circumstances in which it has knowledge, or
 35 should otherwise have grounds for knowledge, sells, gives, or in
 36 any way furnishes to another person who is ~~under the age of 18~~
 37 *years 21 years of age* any tobacco, cigarette, or cigarette papers,
 38 or blunt wraps, or any other preparation of tobacco, or any other
 39 instrument or paraphernalia that is designed for the smoking or
 40 ingestion of tobacco, ~~products prepared from tobacco~~, *tobacco*

1 *products*, or any controlled substance, is subject to either a criminal
2 action for a misdemeanor or to a civil action brought by a city
3 attorney, a county counsel, or a district attorney, punishable by a
4 fine of two hundred dollars (\$200) for the first offense, five
5 hundred dollars (\$500) for the second offense, and one thousand
6 dollars (\$1,000) for the third offense.

7 **Notwithstanding**

8 (B) *Notwithstanding* Section 1464 or any other law, 25 percent
9 of each civil and criminal penalty collected pursuant to this
10 subdivision shall be paid to the office of the city attorney, county
11 counsel, or district attorney, whoever is responsible for bringing
12 the successful action, and 25 percent of each civil and criminal
13 penalty collected pursuant to this subdivision shall be paid to the
14 city or county for the administration and cost of the community
15 service work component provided in subdivision (b). *action*.

16 **Proof**

17 (C) *Proof* that a defendant, or his or her employee or agent,
18 demanded, was shown, and reasonably relied upon evidence of
19 majority shall be defense to any action brought pursuant to this
20 subdivision. Evidence of majority of a person is a facsimile of or
21 a reasonable likeness of a document issued by a federal, state,
22 county, or municipal government, or subdivision or agency thereof,
23 including, but not limited to, a motor vehicle operator's license, a
24 registration certificate issued under the federal Selective Service
25 Act, or an identification card issued to a member of the Armed
26 Forces.

27 **For**

28 (D) *For* purposes of this section, the person liable for selling or
29 furnishing tobacco products to ~~minors~~ *persons under 21 years of*
30 *age* by a tobacco vending machine shall be the person authorizing
31 the installation or placement of the tobacco vending machine upon
32 premises he or she manages or otherwise controls and under
33 circumstances in which he or she has knowledge, or should
34 otherwise have grounds for knowledge, that the tobacco vending
35 machine will be utilized by ~~minors~~ *persons under 21 years of age*.

36 (2) For purposes of this section, "blunt wraps" means cigar
37 papers or cigar wrappers of all types that are designed for smoking
38 or ingestion of tobacco products and contain less than 50 percent
39 tobacco.

1 ~~(b) Every person under the age of 18 years who purchases,~~
2 ~~receives, or possesses any tobacco, cigarette, or cigarette papers,~~
3 ~~or any other preparation of tobacco, or any other instrument or~~
4 ~~paraphernalia that is designed for the smoking of tobacco, products~~
5 ~~prepared from tobacco, or any controlled substance shall, upon~~
6 ~~conviction, be punished by a fine of seventy-five dollars (\$75) or~~
7 ~~30 hours of community service work.~~

8 (e)

9 (b) Every person, firm, or corporation that sells, or deals in
10 tobacco or any preparation thereof, shall post conspicuously and
11 keep so posted in his, her, or their place of business at each point
12 of purchase the notice required pursuant to subdivision (b) of
13 Section 22952 of the Business and Professions Code, and any
14 person failing to do so shall, upon conviction, be punished by a
15 fine of fifty dollars (\$50) for the first offense, one hundred dollars
16 (\$100) for the second offense, two hundred fifty dollars (\$250) for
17 the third offense, and five hundred dollars (\$500) for the fourth
18 offense and each subsequent violation of this provision, or by
19 imprisonment in a county jail not exceeding 30 days.

20 (d)

21 (c) For purposes of determining the liability of persons, firms,
22 or corporations controlling franchises or business operations in
23 multiple locations for the second and subsequent violations of this
24 section, each individual franchise or business location shall be
25 deemed a separate entity.

26 ~~(e) Notwithstanding subdivision (b), any person under 18 years~~
27 ~~of age who purchases, receives, or possesses any tobacco, cigarette,~~
28 ~~or cigarette papers, or any other preparation of tobacco, any other~~
29 ~~instrument or paraphernalia that is designed for the smoking of~~
30 ~~tobacco, or products prepared from tobacco is immune from~~
31 ~~prosecution for that purchase, receipt, or possession while~~
32 ~~participating in either of the following:~~

33 ~~(1) An enforcement activity that complies with the guidelines~~
34 ~~adopted pursuant to subdivisions (e) and (d) of Section 22952 of~~
35 ~~the Business and Professions Code.~~

36 ~~(2) An activity conducted by the State Department of Public~~
37 ~~Health, a local health department, or a law enforcement agency~~
38 ~~for the purpose of determining or evaluating youth tobacco~~
39 ~~purchase rates.~~

40 (f)

1 (d) It is the Legislature’s intent to regulate the subject matter
2 of this section. As a result, a city, county, or city and county shall
3 not adopt any ordinance or regulation inconsistent with this section.

4 (e) For purposes of this section, “smoking” has the same
5 meaning as in subdivision (c) of Section 22950.5 of the Business
6 and Professions Code.

7 (f) For purposes of this section, “tobacco product” means a
8 product or device as defined in subdivision (d) of Section 22950.5
9 of the Business and Professions Code.

10 ~~SEC. 26.~~

11 SEC. 25. Section 561 of the Public Utilities Code is amended
12 to read:

13 561. (a) Every railroad corporation, passenger stage
14 corporation, passenger air carrier, and street railroad corporation
15 providing departures originating in this state shall prohibit the
16 smoking of a tobacco product in the passenger seating area of
17 every passenger car, passenger stage, aircraft, or other vehicle.

18 (b) Every such corporation and carrier shall display in the
19 passenger seating area of every passenger car, passenger stage,
20 aircraft, or other vehicle, notices sufficient in number, posted in
21 such locations as to be readily seen by boarding passengers,
22 advising passengers of the no smoking requirements pursuant to
23 subdivision (a). Words on such notices which state “No Smoking”
24 or an equivalent phrase shall be at least three-quarters of one inch
25 high, and any other explanatory words on the notices shall be at
26 least one-quarter of one inch high.

27 (c) No person shall smoke a tobacco product in a space known
28 by him or her to be designated for nonsmoking passengers. A
29 violation of this subdivision is not a crime.

30 (d) As used in this section, “passenger air carrier” shall have
31 the same meaning as provided in Sections 2741 and 2743.

32 (e) For purposes of this section, “smoke” and “smoking” have
33 the same meaning as in subdivision (c) of Section 22950.5 of the
34 Business and Professions Code.

35 (f) For purposes of this section, “tobacco product” means a
36 product or device as defined in subdivision (d) of Section 22950.5
37 of the Business and Professions Code.

38 ~~SEC. 27. Section 99580 of the Public Utilities Code is amended~~
39 ~~to read:~~

1 99580. ~~(a) Pursuant to subdivision (c) of Section 640 of the~~
2 ~~Penal Code, a public transportation agency may enact and enforce~~
3 ~~an ordinance to impose and enforce an administrative penalty for~~
4 ~~any of the acts described in subdivision (b). The ordinance shall~~
5 ~~include the provisions of this chapter and shall not apply to minors.~~
6 ~~(b) (1) Evasion of the payment of a fare of the system.~~
7 ~~(2) Misuse of a transfer, pass, ticket, or token with the intent to~~
8 ~~evade the payment of a fare.~~
9 ~~(3) Playing sound equipment on or in a system facility or~~
10 ~~vehicle.~~
11 ~~(4) Smoking a tobacco product, eating, or drinking in or on a~~
12 ~~system facility or vehicle in those areas where those activities are~~
13 ~~prohibited by that system.~~
14 ~~(5) Expecterating upon a system facility or vehicle.~~
15 ~~(6) Willfully disturbing others on or in a system facility or~~
16 ~~vehicle by engaging in boisterous or unruly behavior.~~
17 ~~(7) Carrying an explosive or acid, flammable liquid, or toxic or~~
18 ~~hazardous material in a system facility or vehicle.~~
19 ~~(8) Urinating or defecating in a system facility or vehicle, except~~
20 ~~in a lavatory. However, this paragraph shall not apply to a person~~
21 ~~who cannot comply with this paragraph as a result of a disability,~~
22 ~~age, or a medical condition.~~
23 ~~(9) (A) Willfully blocking the free movement of another person~~
24 ~~in a system facility or vehicle.~~
25 ~~(B) This paragraph shall not be interpreted to affect any lawful~~
26 ~~activities permitted or first amendment rights protected under the~~
27 ~~laws of this state or applicable federal law, including, but not~~
28 ~~limited to, laws related to collective bargaining, labor relations,~~
29 ~~or labor disputes.~~
30 ~~(10) Skateboarding, roller skating, bicycle riding, or roller~~
31 ~~blading in a system facility, including a parking structure, or in a~~
32 ~~system vehicle. This paragraph does not apply to an activity that~~
33 ~~is necessary for utilization of a system facility by a bicyclist,~~
34 ~~including, but not limited to, an activity that is necessary for~~
35 ~~parking a bicycle or transporting a bicycle aboard a system vehicle,~~
36 ~~if that activity is conducted with the permission of the agency of~~
37 ~~the system in a manner that does not interfere with the safety of~~
38 ~~the bicyclist or other patrons of the system facility.~~
39 ~~(11) (A) Unauthorized use of a discount ticket or failure to~~
40 ~~present, upon request from a system representative, acceptable~~

1 proof of eligibility to use a discount ticket, in accordance with
2 Section 99155, and posted system identification policies when
3 entering or exiting a system station or vehicle. Acceptable proof
4 of eligibility must be clearly defined in the posting.

5 (B) In the event that an eligible discount ticket user is not in
6 possession of acceptable proof at the time of request, an issued
7 notice of fare evasion or passenger conduct violation shall be held
8 for a period of 72 hours to allow the user to produce acceptable
9 proof. If the proof is provided, that notice shall be voided. If the
10 proof is not produced within that time period, that notice shall be
11 processed.

12 (12) Sale or peddling of any goods, merchandise, property, or
13 services of any kind whatsoever on the facilities, vehicles, or
14 property of the public transportation system without the express
15 written consent of the public transportation system or its duly
16 authorized representatives.

17 (e) (1) The public transportation agency may contract with a
18 private vendor or governmental agency for the processing of notices
19 of fare evasion or passenger conduct violation, and notices of
20 delinquent fare evasion or passenger conduct violation pursuant
21 to Section 99581.

22 (2) For the purpose of this chapter, “processing agency” means
23 either of the following:

24 (A) The agency issuing the notice of fare evasion or passenger
25 conduct violation and the notice of delinquent fare evasion or
26 passenger conduct violation.

27 (B) The party responsible for processing the notice of fare
28 evasion or passenger conduct violation and the notice of delinquent
29 violation, if a contract is entered into pursuant to paragraph (1).

30 (3) For the purpose of this chapter, “fare evasion or passenger
31 conduct violation penalty” includes, but is not limited to, a late
32 payment penalty, administrative fee, fine, assessment, and costs
33 of collection as provided for in the ordinance.

34 (4) For the purpose of this chapter, “public transportation
35 agency” shall mean a public agency that provides public
36 transportation as defined in paragraph (1) of subdivision (f) of
37 Section 1 of Article XIX A of the California Constitution.

38 (5) All fare evasion and passenger conduct violation penalties
39 collected pursuant to this chapter shall be deposited in the general
40 fund of the county in which the citation is administered.

1 ~~(d) (1) If a fare evasion or passenger conduct violation is~~
2 ~~observed by a person authorized to enforce the ordinance, a notice~~
3 ~~of fare evasion or passenger conduct violation shall be issued. The~~
4 ~~notice shall set forth the violation, including reference to the~~
5 ~~ordinance setting forth the administrative penalty, the date of the~~
6 ~~violation, the approximate time, and the location where the~~
7 ~~violation occurred. The notice shall include a printed statement~~
8 ~~indicating the date payment is required to be made, and the~~
9 ~~procedure for contesting the notice. The notice shall be served by~~
10 ~~personal service upon the violator. The notice, or copy of the~~
11 ~~notice, shall be considered a record kept in the ordinary course of~~
12 ~~business of the issuing agency and the processing agency, and~~
13 ~~shall be prima facie evidence of the facts contained in the notice~~
14 ~~establishing a rebuttable presumption affecting the burden of~~
15 ~~producing evidence.~~

16 ~~(2) When a notice of fare evasion or passenger conduct violation~~
17 ~~has been served, the person issuing the notice shall file the notice~~
18 ~~with the processing agency.~~

19 ~~(3) If, after a notice of fare evasion or passenger conduct~~
20 ~~violation is issued pursuant to this section, the issuing officer~~
21 ~~determines that there is incorrect data on the notice, including, but~~
22 ~~not limited to, the date or time, the issuing officer may indicate in~~
23 ~~writing on a form attached to the original notice the necessary~~
24 ~~correction to allow for the timely entry of the corrected notice on~~
25 ~~the processing agency's data system. A copy of the correction shall~~
26 ~~be mailed to the address provided by the person cited at the time~~
27 ~~the original notice of fare evasion or passenger conduct violation~~
28 ~~was served.~~

29 ~~(4) If a person contests a notice of fare evasion or passenger~~
30 ~~conduct violation, the issuing agency shall proceed in accordance~~
31 ~~with Section 99581.~~

32 ~~(e) In setting the amounts of administrative penalties for the~~
33 ~~violations listed in subdivision (b), the public transportation agency~~
34 ~~shall not establish penalty amounts that exceed the maximum fine~~
35 ~~amount set forth in Section 640 of the Penal Code.~~

36 ~~(f) A person who receives a notice of fare evasion or passenger~~
37 ~~conduct violation pursuant to this section shall not be subject to~~
38 ~~citation for a violation of Section 640 of the Penal Code.~~

39 ~~(g) If an entity enacts an ordinance pursuant to this section it~~
40 ~~shall, both two years and five years after enactment of the~~

1 ordinance, report all of the following information to the Senate
2 Committee on Transportation and Housing and the Assembly
3 Committee on Transportation:

4 (1) A description of the ordinance, including the circumstances
5 under which an alleged violator is afforded the opportunity to
6 complete the administrative process.

7 (2) The amount of the administrative penalties.

8 (3) The number and types of citations administered pursuant to
9 the ordinance.

10 (4) To the extent available, a comparison of the number and
11 types of citations administered pursuant to the ordinance with the
12 number and types of citations issued for similar offenses and
13 administered through the courts both in the two years prior to the
14 ordinance and, if any, since enactment of the ordinance.

15 (5) A discussion of the effect of the ordinance on passenger
16 behavior.

17 (6) A discussion of the effect of the ordinance on revenues to
18 the entity described in subdivision (a) and, in consultation with
19 the superior courts, the cost savings to the county courts. The
20 superior courts are encouraged to collaborate on and provide data
21 for this report.

22 (h) For purposes of this section, “smoking” has the same
23 meaning as in subdivision (e) of Section 22950.5 of the Business
24 and Professions Code.

25 (i) For purposes of this section, “tobacco product” means a
26 product or device as defined in subdivision (d) of Section 22950.5
27 of the Business and Professions Code.

28 *SEC. 26. Section 99580 of the Public Utilities Code is amended*
29 *to read:*

30 99580. (a) Pursuant to subdivision (e) of Section 640 of the
31 Penal Code, a public transportation agency may enact and enforce
32 an ordinance to impose and enforce an administrative penalty for
33 any of the acts described in subdivision (b).

34 (b) (1) Evasion of the payment of a fare of the system.

35 (2) Misuse of a transfer, pass, ticket, or token with the intent to
36 evade the payment of a fare.

37 (3) Playing unreasonably loud sound equipment on or in a
38 system facility or vehicle, or failing to comply with the warning
39 of a transit official related to disturbing another person by loud or
40 unreasonable noise.

1 (4) ~~Smoking~~, *Smoking a tobacco product*, eating, or drinking
2 in or on a system facility or vehicle in those areas where those
3 activities are prohibited by that system.

4 (5) Expectorating upon a system facility or vehicle.

5 (6) Willfully disturbing others on or in a system facility or
6 vehicle by engaging in boisterous or unruly behavior.

7 (7) Carrying an explosive or acid, flammable liquid, or toxic or
8 hazardous material in a system facility or vehicle.

9 (8) Urinating or defecating in a system facility or vehicle, except
10 in a lavatory. However, this paragraph shall not apply to a person
11 who cannot comply with this paragraph as a result of a disability,
12 age, or a medical condition.

13 (9) (A) Willfully blocking the free movement of another person
14 in a system facility or vehicle.

15 (B) This paragraph shall not be interpreted to affect any lawful
16 activities permitted or First Amendment rights protected under the
17 laws of this state or applicable federal law, including, but not
18 limited to, laws related to collective bargaining, labor relations,
19 or labor disputes.

20 (10) Skateboarding, roller skating, bicycle riding, or roller
21 blading in a system facility, including a parking structure, or in a
22 system vehicle. This paragraph does not apply to an activity that
23 is necessary for utilization of a system facility by a bicyclist,
24 including, but not limited to, an activity that is necessary for
25 parking a bicycle or transporting a bicycle aboard a system vehicle,
26 if that activity is conducted with the permission of the agency of
27 the system in a manner that does not interfere with the safety of
28 the bicyclist or other patrons of the system facility.

29 (11) (A) Unauthorized use of a discount ticket or failure to
30 present, upon request from a system representative, acceptable
31 proof of eligibility to use a discount ticket, in accordance with
32 Section 99155, and posted system identification policies when
33 entering or exiting a system station or vehicle. Acceptable proof
34 of eligibility must be clearly defined in the posting.

35 (B) If an eligible discount ticket user is not in possession of
36 acceptable proof at the time of request, an issued notice of fare
37 evasion or passenger conduct violation shall be held for a period
38 of 72 hours to allow the user to produce acceptable proof. If the
39 proof is provided, that notice shall be voided. If the proof is not
40 produced within that time period, that notice shall be processed.

1 (12) Selling or peddling any goods, merchandise, property, or
2 services of any kind whatsoever on the facilities, vehicles, or
3 property of the public transportation system without the express
4 written consent of the public transportation system or its duly
5 authorized representatives.

6 (13) Failing to yield seating reserved for an elderly or disabled
7 person.

8 (c) (1) The public transportation agency may contract with a
9 private vendor or governmental agency for the processing of notices
10 of fare evasion or passenger conduct violation, and notices of
11 delinquent fare evasion or passenger conduct violation pursuant
12 to Section 99581.

13 (2) For the purpose of this chapter, “processing agency” means
14 either of the following:

15 (A) The agency issuing the notice of fare evasion or passenger
16 conduct violation and the notice of delinquent fare evasion or
17 passenger conduct violation.

18 (B) The party responsible for processing the notice of fare
19 evasion or passenger conduct violation and the notice of delinquent
20 violation, if a contract is entered into pursuant to paragraph (1).

21 (3) For the purpose of this chapter, “fare evasion or passenger
22 conduct violation penalty” includes, but is not limited to, a late
23 payment penalty, administrative fee, fine, assessment, and costs
24 of collection as provided for in the ordinance.

25 (4) For the purpose of this chapter, “public transportation
26 agency” shall mean a public agency that provides public
27 transportation as defined in paragraph (1) of subdivision (f) of
28 Section 1 of Article XIX A of the California Constitution.

29 (5) All fare evasion and passenger conduct violation penalties
30 collected pursuant to this chapter shall be deposited in the general
31 fund of the county in which the citation is administered.

32 (d) (1) If a fare evasion or passenger conduct violation is
33 observed by a person authorized to enforce the ordinance, a notice
34 of fare evasion or passenger conduct violation shall be issued. The
35 notice shall set forth the violation, including reference to the
36 ordinance setting forth the administrative penalty, the date of the
37 violation, the approximate time, and the location where the
38 violation occurred. The notice shall include a printed statement
39 indicating the date payment is required to be made, and the
40 procedure for contesting the notice. The notice shall be served by

1 personal service upon the violator. The notice, or copy of the
2 notice, shall be considered a record kept in the ordinary course of
3 business of the issuing agency and the processing agency, and
4 shall be prima facie evidence of the facts contained in the notice
5 establishing a rebuttable presumption affecting the burden of
6 producing evidence.

7 (2) When a notice of fare evasion or passenger conduct violation
8 has been served, the person issuing the notice shall file the notice
9 with the processing agency.

10 (3) If, after a notice of fare evasion or passenger conduct
11 violation is issued pursuant to this section, the issuing officer
12 determines that there is incorrect data on the notice, including, but
13 not limited to, the date or time, the issuing officer may indicate in
14 writing on a form attached to the original notice the necessary
15 correction to allow for the timely entry of the corrected notice on
16 the processing agency's data system. A copy of the correction shall
17 be mailed to the address provided by the person cited at the time
18 the original notice of fare evasion or passenger conduct violation
19 was served.

20 (4) If a person contests a notice of fare evasion or passenger
21 conduct violation, the issuing agency shall proceed in accordance
22 with Section 99581.

23 (e) In setting the amounts of administrative penalties for the
24 violations listed in subdivision (b), the public transportation agency
25 shall not establish penalty amounts that exceed the maximum fine
26 amount set forth in Section 640 of the Penal Code.

27 (f) A person who receives a notice of fare evasion or passenger
28 conduct violation pursuant to this section shall not be subject to
29 citation for a violation of Section 640 of the Penal Code.

30 (g) If an entity enacts an ordinance pursuant to this section it
31 shall, both two years and five years after enactment of the
32 ordinance, report all of the following information to the Senate
33 Committee on Transportation and Housing and the Assembly
34 Committee on Transportation:

35 (1) A description of the ordinance, including the circumstances
36 under which an alleged violator is afforded the opportunity to
37 complete the administrative process.

38 (2) The amount of the administrative penalties.

39 (3) The number and types of citations administered pursuant to
40 the ordinance.

1 (4) To the extent available, a comparison of the number and
2 types of citations administered pursuant to the ordinance with the
3 number and types of citations issued for similar offenses and
4 administered through the courts both in the two years prior to the
5 ordinance and, if any, since enactment of the ordinance.

6 (5) A discussion of the effect of the ordinance on passenger
7 behavior.

8 (6) A discussion of the effect of the ordinance on revenues to
9 the entity described in subdivision (a) and, in consultation with
10 the superior courts, the cost savings to the county courts. The
11 superior courts are encouraged to collaborate on and provide data
12 for this report.

13 *(h) For purposes of this section, “smoking” has the same*
14 *meaning as in subdivision (c) of Section 22950.5 of the Business*
15 *and Professions Code.*

16 *(i) For purposes of this section, “tobacco product” means a*
17 *product or device as defined in subdivision (d) of Section 22950.5*
18 *of the Business and Professions Code.*

19 ~~SEC. 28.~~

20 SEC. 27. Section 12523 of the Vehicle Code is amended to
21 read:

22 12523. (a) No person shall operate a youth bus without having
23 in possession a valid driver’s license of the appropriate class,
24 endorsed for passenger transportation and a certificate issued by
25 the department to permit the operation of a youth bus.

26 (b) Applicants for a certificate to drive a youth bus shall present
27 evidence that they have successfully completed a driver training
28 course administered by or at the direction of their employer
29 consisting of a minimum of 10 hours of classroom instruction
30 covering applicable laws and regulations and defensive driving
31 practices and a minimum of 10 hours of behind-the-wheel training
32 in a vehicle to be used as a youth bus. Applicants seeking to renew
33 a certificate to drive a youth bus shall present evidence that they
34 have received two hours of refresher training during each 12
35 months of driver certificate validity.

36 (c) The driver certificate shall be issued only to applicants
37 qualified by examinations prescribed by the Department of Motor
38 Vehicles and the Department of the California Highway Patrol,
39 and upon payment of a fee of twenty-five dollars (\$25) for an
40 original certificate and twelve dollars (\$12) for the renewal of that

1 certificate to the Department of the California Highway Patrol.
 2 The examinations shall be conducted by the Department of the
 3 California Highway Patrol. The Department of Motor Vehicles
 4 may deny, suspend, or revoke a certificate valid for driving a youth
 5 bus for the causes specified in this code or in regulations adopted
 6 pursuant to this code.

7 (d) An operator of a youth bus shall, at all times when operating
 8 a youth bus, do all of the following:

9 (1) Use seat belts.

10 (2) Refrain from smoking tobacco products.

11 (3) Report any accidents reportable under Section 16000 to the
 12 Department of the California Highway Patrol.

13 (e) A person holding a valid certificate to permit the operation
 14 of a youth bus, issued prior to January 1, 1991, shall not be required
 15 to reapply for a certificate to satisfy any additional requirements
 16 imposed by the act adding this subdivision until the certificate he
 17 or she holds expires or is canceled or revoked.

18 (f) For purposes of this section, “smoking” has the same
 19 meaning as in subdivision (c) of Section 22950.5 of the Business
 20 and Professions Code.

21 (g) For purposes of this section, “tobacco product” means a
 22 product or device as defined in subdivision (d) of Section 22950.5
 23 of the Business and Professions Code.

24 ~~SEC. 29.~~

25 *SEC. 28.* This act does not affect any laws or regulations
 26 regarding medical cannabis.

27 *SEC. 29. (a) Section 2.5 of this bill incorporates amendments*
 28 *to Section 22958 of the Business and Professions Code proposed*
 29 *by both this bill and Assembly Bill 6 of the Second Extraordinary*
 30 *Session, Senate Bill 7 of the Second Extraordinary Session, and*
 31 *Assembly Bill 8 of the Second Extraordinary Session. It shall only*
 32 *become operative if (1) all bills are enacted, or just this bill and*
 33 *either or both Senate Bill 7 of the Second Extraordinary Session*
 34 *or Assembly Bill 8 of the Second Extraordinary Session are*
 35 *enacted, and become effective on or before January 1, 2017, (2)*
 36 *each bill amends Section 22958 of the Business and Professions*
 37 *Code, and (3) this bill is enacted after Assembly Bill 6 of the*
 38 *Second Extraordinary Session, Senate Bill 7 of the Second*
 39 *Extraordinary Session, and Assembly Bill 8 of the Second*

1 *Extraordinary Session, in which case Section 2 of this bill shall*
2 *not become operative.*

3 *(b) Section 23.5 of this bill incorporates amendments to Section*
4 *6404.5 of the Labor Code proposed by both this bill and Assembly*
5 *Bill 6 of the Second Extraordinary Session, Senate Bill 6 of the*
6 *Second Extraordinary Session, and Assembly Bill 7 of the Second*
7 *Extraordinary Session. It shall only become operative if (1) all*
8 *bills are enacted, or just this bill and either or both Senate Bill 6*
9 *of the Second Extraordinary Session or Assembly Bill 7 of the*
10 *Second Extraordinary Session are enacted, and become effective*
11 *on or before January 1, 2017, (2) each bill amends Section 6404.5*
12 *of the Labor Code, and (3) this bill is enacted after Assembly Bill*
13 *6 of the Second Extraordinary Session, Senate Bill 6 of the Second*
14 *Extraordinary Session, and Assembly Bill 7 of the Second*
15 *Extraordinary Session, in which case Section 23 of this bill shall*
16 *not become operative.*

17 *(c) Section 24.5 of this bill incorporates amendments to Section*
18 *308 of the Penal Code proposed by both this bill and Assembly*
19 *Bill 6 of the Second Extraordinary Session, Senate Bill 7 of the*
20 *Second Extraordinary Session, and Assembly Bill 8 of the Second*
21 *Extraordinary Session. It shall only become operative if (1) all*
22 *bills are enacted, or just this bill and either or both Senate Bill 7*
23 *of the Second Extraordinary Session or Assembly Bill 8 of the*
24 *Second Extraordinary Session are enacted, and become effective*
25 *on or before January 1, 2017, (2) each bill amends Section 308 of*
26 *the Penal Code, and (3) this bill is enacted after Assembly Bill 6*
27 *of the Second Extraordinary Session, Senate Bill 7 of the Second*
28 *Extraordinary Session, and Assembly Bill 8 of the Second*
29 *Extraordinary Session, in which case Section 24 of this bill shall*
30 *not become operative.*

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

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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