

AMENDED IN ASSEMBLY MARCH 2, 2016  
AMENDED IN ASSEMBLY FEBRUARY 29, 2016  
AMENDED IN SENATE AUGUST 26, 2015

CALIFORNIA LEGISLATURE—2015–16 SECOND EXTRAORDINARY SESSION

**SENATE BILL**

**No. 5**

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**Introduced by Senator Leno**  
**(Coauthors: Senators Beall, Hernandez, Liu, McGuire, Mitchell,**  
**Pan, and Pavley)**

July 16, 2015

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An act to amend Sections 22950.5, 22958, and 22962 of, to amend, repeal, and add Section 22980.2 of, and to add 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 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 a person under 18 years of age. Existing law also prohibits a person from selling or otherwise furnishing an electronic cigarette to 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. 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 include the STAKE Act’s new definition of tobacco products in the provision authorizing seizure of tobacco products described above. The bill would make these provisions operative on 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 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.  
26 (B) An electronic device that delivers nicotine or other vaporized  
27 liquids to the person inhaling from the device, including, but not  
28 limited to, an electronic cigarette, cigar, pipe, or hookah.  
29 (C) Any component, part, or accessory of a tobacco product,  
30 whether or not sold separately.

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

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

8 22958. (a) An enforcing agency may assess civil penalties  
9 against any person, firm, or corporation that sells, gives, or in any  
10 way furnishes to another person who is under 18 years of age, any  
11 tobacco, cigarette, cigarette papers, any other instrument or  
12 paraphernalia that is designed for the smoking or ingestion of  
13 tobacco, tobacco products, or any controlled substance, according  
14 to the following schedule: (1) a civil penalty of four hundred dollars  
15 (\$400) to six hundred dollars (\$600) for the first violation, (2) a  
16 civil penalty of nine hundred dollars (\$900) to one thousand dollars  
17 (\$1,000) for the second violation within a five-year period, (3) a  
18 civil penalty of one thousand two hundred dollars (\$1,200) to one  
19 thousand eight hundred dollars (\$1,800) for a third violation within  
20 a five-year period, (4) a civil penalty of three thousand dollars  
21 (\$3,000) to four thousand dollars (\$4,000) for a fourth violation  
22 within a five-year period, or (5) a civil penalty of five thousand  
23 dollars (\$5,000) to six thousand dollars (\$6,000) for a fifth violation  
24 within a five-year period.

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

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

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

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

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

5 (c) (1) For each suspension or revocation pursuant to  
6 subdivision (b), the civil penalty of two hundred fifty dollars (\$250)  
7 assessed pursuant to that subdivision, notwithstanding Section  
8 22953, shall be deposited into the Cigarette and Tobacco Products  
9 Compliance Fund established pursuant to Section 22990. Moneys  
10 from that civil penalty deposited into this fund shall be made  
11 available to the State Board of Equalization, upon appropriation  
12 by the Legislature, for the purposes of meeting its duties under  
13 subdivision (b).

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

19 (d) The enforcing agency shall assess penalties pursuant to the  
20 schedule set forth in subdivision (a) against a person, firm, or  
21 corporation that sells, offers for sale, or distributes tobacco products  
22 from a cigarette or tobacco products vending machine, or a person,  
23 firm, or corporation that leases, furnishes, or services these  
24 machines in violation of Section 22960.

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

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

37 (g) If a civil penalty has been assessed pursuant to this section  
38 against a person, firm, or corporation for a single, specific violation  
39 of this division, the person, firm, or corporation shall not be  
40 prosecuted under Section 308 of the Penal Code for a violation

1 based on the same facts or specific incident for which the civil  
2 penalty was assessed. If a person, firm, or corporation has been  
3 prosecuted for a single, specific violation of Section 308 of the  
4 Penal Code, the person, firm, or corporation shall not be assessed  
5 a civil penalty under this section based on the same facts or specific  
6 incident upon which the prosecution under Section 308 of the Penal  
7 Code was based.

8 (h) (1) In the case of a corporation or business with more than  
9 one retail location, to determine the number of accumulated  
10 violations for purposes of the penalty schedule set forth in  
11 subdivision (a), violations of this division by one retail location  
12 shall not be accumulated against other retail locations of that same  
13 corporation or business.

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

20 (i) Proceedings under this section shall be conducted pursuant  
21 to Section 131071 of the Health and Safety Code, except in cases  
22 where a civil penalty is assessed by an enforcing agency other than  
23 the department, in which case proceedings shall be conducted  
24 pursuant to the procedures of that agency that are consistent with  
25 Section 131071 of the Health and Safety Code.

26 SEC. 2.5. Section 22958 of the Business and Professions Code  
27 is amended to read:

28 22958. (a) (1) An enforcing agency may assess civil penalties  
29 against any person, firm, or corporation that sells, gives, or in any  
30 way furnishes to another person who is under 21 years of age, any  
31 tobacco, cigarette, cigarette papers, any other instrument or  
32 paraphernalia that is designed for the smoking or ingestion of  
33 tobacco, tobacco products, or any controlled substance, according  
34 to the following schedule: (1) a civil penalty of four hundred dollars  
35 (\$400) to six hundred dollars (\$600) for the first violation, (2) a  
36 civil penalty of nine hundred dollars (\$900) to one thousand dollars  
37 (\$1,000) for the second violation within a five-year period, (3) a  
38 civil penalty of one thousand two hundred dollars (\$1,200) to one  
39 thousand eight hundred dollars (\$1,800) for a third violation within  
40 a five-year period, (4) a civil penalty of three thousand dollars

1 (\$3,000) to four thousand dollars (\$4,000) for a fourth violation  
2 within a five-year period, or (5) a civil penalty of five thousand  
3 dollars (\$5,000) to six thousand dollars (\$6,000) for a fifth violation  
4 within a five-year period.

5 (2) *This subdivision does not apply to the sale, giving, or*  
6 *furnishing of any of the products specified in paragraph (1) to*  
7 *active duty military personnel who are 18 years of age or older.*  
8 *An identification card issued by the United States Armed Forces*  
9 *shall be used as proof of age for this purpose.*

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

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

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

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

26 (2) The provisions of Chapter 4 (commencing with Section  
27 55121) of Part 30 of Division 2 of the Revenue and Taxation Code  
28 apply with respect to the collection of the penalty imposed by the  
29 State Board of Equalization pursuant to paragraph (1).

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

39 (2) The department shall, upon request, provide to the State  
40 Board of Equalization information concerning any person, firm,

1 or corporation that has been assessed a civil penalty for violation  
2 of the STAKE Act pursuant to this section when the department  
3 has notified the State Board of Equalization of the violation.

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

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

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

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

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

39 (2) In the case of a retail location that operates pursuant to a  
40 franchise as defined in Section 20001, violations of this division

1 accumulated and assessed against a prior owner of a single  
2 franchise location shall not be accumulated against a new owner  
3 of the same single franchise location for purposes of the penalty  
4 schedule set forth in subdivision (a).

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

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

13 22962. (a) For purposes of this section, the following terms  
14 have the following meanings:

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

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

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

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

29 (A) Primarily sells tobacco products.

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

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

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

39 (b) (1) (A) Except as permitted in subdivision (b) of Section  
40 22960, it is unlawful for a person engaged in the retail sale of

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

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

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

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

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

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

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

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

36 22971.7. (a) For the purposes of this chapter, except as  
37 provided in subdivision (b), and notwithstanding subdivision (s)  
38 of Section 22971, a “tobacco product” includes a product or device  
39 as defined in subdivision (d) of Section 22950.5.

1 (b) This section does not apply to subdivision (b) of Section  
2 22974.3.

3 (c) This section shall be operative on January 1, 2017.

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

6 22973.3. (a) Notwithstanding any other law, an application  
7 for a license for the sale of a tobacco product, as defined in  
8 subdivision (d) of Section 22950.5, that is not subject to a tax  
9 imposed by the Cigarette and Tobacco Products Tax Law pursuant  
10 to Part 13 (commencing with Section 30001) of Division 2 of the  
11 Revenue and Taxation Code shall be filed on a form prescribed  
12 by the board and shall include the following:

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

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

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

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

35 (5) A statement by the applicant that the contents of the  
36 application are complete, true, and correct. Any person who signs  
37 a statement pursuant to this subdivision that asserts the truth of  
38 any material matter that he or she knows to be false is guilty of a  
39 misdemeanor punishable by imprisonment of up to one year in the

1 county jail, or a fine of not more than one thousand dollars  
2 (\$1,000), or both the imprisonment and the fine.

3 (6) The signature of the applicant.

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

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

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

13 (d) A fee of two hundred sixty-five dollars (\$265) shall be  
14 submitted with each application. An applicant that owns or controls  
15 more than one retail location shall obtain a separate license for  
16 each retail location, but may submit a single application for those  
17 licenses with an application license fee of two hundred sixty-five  
18 dollars (\$265) per location.

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

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

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

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

39 (2) A retailer that possesses a valid license to sell cigarettes and  
40 tobacco products issued pursuant to Section 22972 may also sell

1 under that license a tobacco product, as defined in subdivision (d)  
2 of Section 22950.5, that is not subject to a tax imposed by the  
3 Cigarette and Tobacco Products Tax Law pursuant to Part 13  
4 (commencing with Section 30001) of Division 2 of the Revenue  
5 and Taxation Code.

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

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

9 22980.2. (a) A person or entity that engages in the business  
10 of selling cigarettes or tobacco products in this state either without  
11 a valid license or after a license has been suspended or revoked,  
12 and each officer of any corporation that so engages in this business,  
13 is guilty of a misdemeanor punishable as provided in Section  
14 22981.

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

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

29 (d) This section shall become inoperative on January 1, 2017,  
30 and, as of April 1, 2017, is repealed.

31 SEC. 7. Section 22980.2 is added to the Business and  
32 Professions Code, to read:

33 22980.2. (a) A person or entity that engages in the business  
34 of selling cigarettes or tobacco products in this state either without  
35 a valid license or after a license has been suspended or revoked,  
36 and each officer of any corporation that so engages in this business,  
37 is guilty of a misdemeanor punishable as provided in Section  
38 22981.

39 (b) Each day after notification by the board or by a law  
40 enforcement agency that a manufacturer, wholesaler, distributor,

1 importer, retailer, or any other person required to be licensed under  
2 this division offers cigarette and tobacco products for sale or  
3 exchange without a valid license for the location from which they  
4 are offered for sale shall constitute a separate violation.

5 (c) Continued sales or gifting of cigarettes and tobacco products  
6 either without a valid license or after a notification of suspension  
7 or revocation shall constitute a violation punishable as provided  
8 in Section 22981, and shall result in the seizure of all cigarettes  
9 and tobacco products in the possession of the person by the board  
10 or a law enforcement agency. Any cigarettes and tobacco products  
11 seized by the board or by a law enforcement agency shall be  
12 deemed forfeited.

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

16 (e) This section shall be operative on January 1, 2017.

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

18 1947.5. (a) A landlord of a residential dwelling unit, as defined  
19 in Section 1940, or his or her agent, may prohibit the smoking of  
20 a cigarette, as defined in Section 104556 of the Health and Safety  
21 Code, or other tobacco product on the property or in any building  
22 or portion of the building, including any dwelling unit, other  
23 interior or exterior area, or the premises on which it is located, in  
24 accordance with this article.

25 (b) (1) Every lease or rental agreement entered into on or after  
26 January 1, 2012, for a residential dwelling unit on property on any  
27 portion of which the landlord has prohibited the smoking of  
28 cigarettes or other tobacco products pursuant to this article shall  
29 include a provision that specifies the areas on the property where  
30 smoking is prohibited, if the lessee has not previously occupied  
31 the dwelling unit.

32 (2) For a lease or rental agreement entered into before January  
33 1, 2012, a prohibition against the smoking of cigarettes or other  
34 tobacco products in any portion of the property in which smoking  
35 was previously permitted shall constitute a change of the terms of  
36 tenancy, requiring adequate notice in writing, to be provided in  
37 the manner prescribed in Section 827.

38 (c) A landlord who exercises the authority provided in  
39 subdivision (a) to prohibit smoking shall be subject to federal,  
40 state, and local requirements governing changes to the terms of a

1 lease or rental agreement for tenants with leases or rental  
2 agreements that are in existence at the time that the policy limiting  
3 or prohibiting smoking is adopted.

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

8 (e) A limitation or prohibition of the use of any tobacco product  
9 shall not affect any other term or condition of the tenancy, nor  
10 shall this section be construed to require statutory authority to  
11 establish or enforce any other lawful term or condition of the  
12 tenancy.

13 (f) 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 (g) 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. 9. Section 48901 of the Education Code is amended to  
20 read:

21 48901. (a) No school shall permit the smoking or use of a  
22 tobacco product by pupils of the school while the pupils are on  
23 campus, or while attending school-sponsored activities or while  
24 under the supervision and control of school district employees.

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

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

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

34 SEC. 10. Section 7597 of the Government Code is amended  
35 to read:

36 7597. (a) No public employee or member of the public shall  
37 smoke a tobacco product inside a public building, or in an outdoor  
38 area within 20 feet of a main exit, entrance, or operable window  
39 of a public building, or in a passenger vehicle, as defined by  
40 Section 465 of the Vehicle Code, owned by the state.

1 (b) This section shall not preempt the authority of any county,  
2 city, city and county, California Community College campus,  
3 campus of the California State University, or campus of the  
4 University of California to adopt and enforce additional smoking  
5 and tobacco control ordinances, regulations, or policies that are  
6 more restrictive than the applicable standards required by this  
7 chapter.

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

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

14 SEC. 11. Section 1234 of the Health and Safety Code is  
15 amended to read:

16 1234. (a) Smoking a tobacco product shall not be permitted  
17 in patient areas of a clinic except those rooms designated for  
18 occupancy exclusively by smokers.

19 (b) Clearly legible signs shall either:

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

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

26 If “smoking permitted” signs are posted, there shall also be  
27 conspicuously posted, near all major entrances, clearly legible  
28 signs stating that smoking is unlawful except in areas designated  
29 “smoking permitted.”

30 (c) This section shall not apply to skilled nursing facilities,  
31 intermediate care facilities, and intermediate care facilities for the  
32 developmentally disabled.

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

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

39 SEC. 12. Section 1286 of the Health and Safety Code is  
40 amended to read:

1 1286. (a) Smoking a tobacco product shall be prohibited in  
2 patient care areas, waiting rooms, and visiting rooms of a health  
3 facility, except those areas specifically designated as smoking  
4 areas, and in patient rooms as specified in subdivision (b).

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

10 (c) Clearly legible signs shall either:

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

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

17 If “smoking permitted” signs are posted, there shall also be  
18 conspicuously posted, near all major entrances, clearly legible  
19 signs stating that smoking is unlawful except in areas designated  
20 “smoking permitted.”

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

23 (e) This section shall not apply to skilled nursing facilities,  
24 intermediate care facilities, and intermediate care facilities for the  
25 developmentally disabled.

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. 13. Section 1530.7 of the Health and Safety Code is  
33 amended to read:

34 1530.7. (a) Group homes, foster family agencies, small family  
35 homes, transitional housing placement providers, and crisis  
36 nurseries licensed pursuant to this chapter shall maintain a  
37 smoke-free environment in the facility.

38 (b) A person who is licensed or certified pursuant to this chapter  
39 to provide residential care in a foster family home or certified  
40 family home shall not smoke a tobacco product or permit any other

1 person to smoke a tobacco product inside the facility, and, when  
2 the child is present, on the outdoor grounds of the facility.

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

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

9 (e) 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. Section 1596.795 of the Health and Safety Code is  
13 amended to read:

14 1596.795. (a) The smoking of a tobacco product in a private  
15 residence that is licensed as a family day care home shall be  
16 prohibited in the home and in those areas of the family day care  
17 home where children are present. Nothing in this section shall  
18 prohibit a city or county from enacting or enforcing an ordinance  
19 relating to smoking in a family day care home if the ordinance is  
20 more stringent than this section.

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

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

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

29 SEC. 15. Section 104495 of the Health and Safety Code is  
30 amended to read:

31 104495. (a) For the purposes of this section, the following  
32 definitions shall govern:

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

37 (2) “Tot lot sandbox area” means a designated play area within  
38 a public park for the use by children under five years of age. Where  
39 the area is not contained by a fence, the boundary of a tot lot  
40 sandbox area shall be defined by the edge of the resilient surface

1 of safety material, such as concrete or wood, or any other material  
2 surrounding the tot lot sandbox area.

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

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

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

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

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

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

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

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

20 (e) Any person who violates this section is guilty of an infraction  
21 and shall be punished by a fine of two hundred fifty dollars (\$250)  
22 for each violation of this section. Punishment under this section  
23 shall not preclude punishment pursuant to Section 13002, Section  
24 374.4 of the Penal Code, or any other provision of law proscribing  
25 the act of littering.

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

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

31 (h) This section shall not preempt the authority of any county,  
32 city, or city and county to regulate smoking around playgrounds  
33 or tot lot sandbox areas. Any county, city, or city and county may  
34 enforce any ordinance adopted prior to January 1, 2002, or may  
35 adopt and enforce new regulations that are more restrictive than  
36 this section, on and after January 1, 2002.

37 SEC. 16. Section 114332.3 of the Health and Safety Code is  
38 amended to read:

39 114332.3. (a) No potentially hazardous food or beverage stored  
40 or prepared in a private home may be offered for sale, sold, or

1 given away from a nonprofit charitable temporary food facility.  
2 Potentially hazardous food shall be prepared in a food  
3 establishment or on the premises of a nonprofit charitable  
4 temporary food facility.

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

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

11 (d) Ice used in beverages shall be protected from contamination  
12 and shall be maintained separate from ice used for refrigeration  
13 purposes.

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

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

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

21 (2) Paragraph (1) does not prohibit the presence, in any room  
22 where food is served to the public, guests, or patrons, of a guide  
23 dog, signal dog, or service dog, as defined by Section 54.1 of the  
24 Civil Code, accompanied by a totally or partially blind person,  
25 deaf person, person whose hearing is impaired, or handicapped  
26 person, or dogs accompanied by persons licensed to train guide  
27 dogs for the blind pursuant to Chapter 9.5 (commencing with  
28 Section 7200) of Division 3 of the Business and Professions Code.

29 (3) Paragraph (1) does not apply to dogs under the control of  
30 uniformed law enforcement officers or of uniformed employees  
31 of private patrol operators and operators of a private patrol service  
32 who are licensed pursuant to Chapter 11.5 (commencing with  
33 Section 7580) of Division 3 of the Business and Professions Code,  
34 while these employees are acting within the course and scope of  
35 their employment as private patrol persons.

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

39 (5) The dogs described in paragraphs (2) and (3) shall be  
40 excluded from food preparation and utensil wash areas. Aquariums

1 and aviaries shall be allowed if enclosed so as not to create a public  
2 health problem.

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

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

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

9 (k) 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. 17. Section 114371 of the Health and Safety Code is  
13 amended to read:

14 114371. Certified farmers’ markets shall meet all of the  
15 following requirements:

16 (a) All food shall be stored at least six inches off the floor or  
17 ground or under any other conditions that are approved. Tents,  
18 canopies, or other overhead coverings are not required for fresh  
19 whole produce sales displays or storage, except when specifically  
20 required pursuant to this chapter. Flavored nuts and dried fruits  
21 that are being sold on a bulk or nonprepackaged basis shall be  
22 displayed and dispensed by the producer from covered containers.  
23 All processed food products being sold shall be in compliance with  
24 Section 113735 and the applicable provisions of Section 110460,  
25 114365, or 114365.2.

26 (b) Food preparation is prohibited at certified farmers’ markets  
27 with the exception of food samples. Trimming whole produce for  
28 sale shall not be considered food preparation. Distribution of food  
29 samples may occur provided that the following sanitary conditions  
30 exist:

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

35 (2) All food samples shall be distributed by the producer in a  
36 manner that is sanitary and in which each sample is distributed  
37 without the possibility of a consumer touching the remaining  
38 samples.

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

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

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

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

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

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

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

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

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

39 (f) Smoking of cigarettes, cigars, pipe tobacco, and other tobacco  
40 products shall not be permitted within 25 feet of the common

1 commerce area comprised of sales personnel and shopping  
2 customers of the certified farmers’ market.

3 (g) Notwithstanding Chapter 10 (commencing with Section  
4 114294) vendors selling food adjacent to, and under the jurisdiction  
5 and management of, a certified farmers’ market may store, display,  
6 and sell from a table or display fixture apart from the mobile  
7 facility in a manner approved by the enforcement agency.

8 (h) Temporary food facilities may be operated at a separate  
9 community event adjacent to, and in conjunction with, certified  
10 farmers’ markets. The organization in control of the community  
11 event at which these temporary food facilities operate shall comply  
12 with Section 114381.1.

13 (i) All harvested, cut, wrapped, or otherwise processed meat,  
14 poultry, and fish products shall be from approved sources as set  
15 forth in Section 113735, and shall be properly labeled or have  
16 documentation present at the point of sale that demonstrates  
17 compliance with this requirement. All harvested, cut, wrapped, or  
18 otherwise processed meat, poultry, and fish products offered for  
19 sale shall be transported, stored, displayed, and maintained at a  
20 temperature of 41 degrees Fahrenheit or colder. The temperature  
21 holding capabilities of the storage containers used shall be  
22 sufficient to maintain safe product temperatures. Storage containers  
23 for meat, poultry, and fish products shall be insulated and have  
24 interior surfaces that are smooth, nonabsorbent, and easily  
25 cleanable. All meat, poultry, and fish products shall be stored in  
26 a manner that reduces the risk of cross-contamination.

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

30 (k) 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. 18. Section 118910 of the Health and Safety Code is  
34 amended to read:

35 118910. (a) The Legislature declares its intent not to preempt  
36 the field of regulation of the smoking of tobacco products. A local  
37 governing body may ban completely the smoking of tobacco  
38 products, or may regulate smoking of tobacco products in any  
39 manner not inconsistent with this article and Article 3 (commencing  
40 with Section 118920) or any other provision of state law.

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

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

7 SEC. 19. Section 118925 of the Health and Safety Code is  
8 amended to read:

9 118925. (a) (1) It is unlawful for any person to smoke a  
10 tobacco product in any vehicle of a passenger stage corporation,  
11 the National Railroad Passenger Corporation (Amtrak) except to  
12 the extent permitted by federal law, in any aircraft except to the  
13 extent permitted by federal law, on a public transportation system,  
14 as defined by Section 99211 of the Public Utilities Code, or in any  
15 vehicle of an entity receiving any transit assistance from the state.

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

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

22 (b) It is unlawful for any person to smoke any plant product  
23 other than a tobacco product in any vehicle of a passenger stage  
24 corporation, the National Railroad Passenger Corporation (Amtrak)  
25 except to the extent permitted by federal law, in any aircraft except  
26 to the extent permitted by federal law, on a public transportation  
27 system, as defined by Section 99211 of the Public Utilities Code,  
28 or in any vehicle of an entity receiving any transit assistance from  
29 the state.

30 SEC. 20. Section 118948 of the Health and Safety Code is  
31 amended to read:

32 118948. (a) It is unlawful for a person to smoke a tobacco  
33 product in a motor vehicle, whether in motion or at rest, in which  
34 there is a minor.

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

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

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

3 SEC. 21. Section 119405 of the Health and Safety Code is  
4 repealed.

5 SEC. 22. Section 119406 is added to the Health and Safety  
6 Code, to read:

7 119406. (a) Commencing October 1, 2016, all cartridges for  
8 electronic cigarettes and solutions for filling or refilling an  
9 electronic cigarette shall be in child-resistant packaging.

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (3) Meeting and banquet rooms in a hotel, motel, other transient  
37 lodging establishment similar to a hotel or motel, restaurant, or  
38 public convention center, except while food or beverage functions  
39 are taking place, including setup, service, and cleanup activities,  
40 or when the room is being used for exhibit purposes. At times

1 when smoking is not permitted in a meeting or banquet room  
2 pursuant to this paragraph, the establishment may permit smoking  
3 in corridors and prefunction areas adjacent to and serving the  
4 meeting or banquet room if no employee is stationed in that  
5 corridor or area on other than a passing basis.

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

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

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

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

19 (6) Warehouse facilities. For purposes of this paragraph,  
20 "warehouse facility" means a warehouse facility with more than  
21 100,000 square feet of total floorspace, and 20 or fewer full-time  
22 employees working at the facility, but does not include any area  
23 within a facility that is utilized as office space.

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

30 (8) Bars and taverns, in which smoking is permitted by  
31 subdivision (f). For purposes of this paragraph, "bar" or "tavern"  
32 means a facility primarily devoted to the serving of alcoholic  
33 beverages for consumption by guests on the premises, in which  
34 the serving of food is incidental. "Bar or tavern" includes those  
35 facilities located within a hotel, motel, or other similar transient  
36 occupancy establishment. However, when located within a building  
37 in conjunction with another use, including a restaurant, "bar" or  
38 "tavern" includes only those areas used primarily for the sale and  
39 service of alcoholic beverages. "Bar" or "tavern" does not include

1 the dining areas of a restaurant, regardless of whether alcoholic  
2 beverages are served therein.

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

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

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

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

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

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

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

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

31 (D) There are sufficient nonsmoking breakrooms to  
32 accommodate nonsmokers.

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

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

37 (B) All employees who enter the smoking area consent to permit  
38 smoking. No one, as part of his or her work responsibilities, shall  
39 be required to work in an area where smoking is permitted. An  
40 employer who is determined by the division to have used coercion

1 to obtain consent or who has required an employee to work in the  
2 smoking area shall be subject to the penalty provisions of Section  
3 6427.

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

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

16 This paragraph shall not be construed to (i) supersede or render  
17 inapplicable any condition or limitation on smoking areas made  
18 applicable to specific types of business establishments by any other  
19 paragraph of this subdivision or (ii) apply in lieu of any otherwise  
20 applicable paragraph of this subdivision that has become  
21 inoperative.

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

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

30 (A) January 1, 1998.

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

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

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

34 (4) From January 1, 1997, to December 31, 1997, inclusive,  
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), subject to both of the following  
38 conditions:

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

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

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

15 (h) This section does not prohibit an employer from prohibiting  
16 smoking of tobacco products in an enclosed place of employment  
17 for any reason.

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

34 (j) A violation of the prohibition set forth in subdivision (b) is  
35 an infraction, punishable by a fine not to exceed one hundred  
36 dollars (\$100) for a first violation, two hundred dollars (\$200) for  
37 a second violation within one year, and five hundred dollars (\$500)  
38 for a third and for each subsequent violation within one year. This  
39 subdivision shall be enforced by local law enforcement agencies,

1 including, but not limited to, local health departments, as  
2 determined by the local governing body.

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

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

13 (m) 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 (n) 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. 23.5. Section 6404.5 of the Labor Code is amended to  
20 read:

21 6404.5. (a) The Legislature finds and declares that regulation  
22 of smoking in the workplace is a matter of statewide interest and  
23 concern. It is the intent of the Legislature in enacting this section  
24 to prohibit the smoking of tobacco products in all (100 percent of)  
25 enclosed places of employment in this state, as covered by this  
26 section, thereby eliminating the need of local governments to enact  
27 workplace smoking restrictions within their respective jurisdictions.  
28 It is further the intent of the Legislature to create a uniform  
29 statewide standard to restrict and prohibit the smoking of tobacco  
30 products in enclosed places of employment, as specified in this  
31 section, in order to reduce employee exposure to environmental  
32 tobacco smoke to a level that will prevent anything other than  
33 insignificantly harmful effects to exposed employees, and also to  
34 eliminate the confusion and hardship that can result from enactment  
35 or enforcement of disparate local workplace smoking restrictions.  
36 Notwithstanding any other provision of this section, it is the intent  
37 of the Legislature that an area not defined as a “place of  
38 employment” pursuant to subdivision (e) is subject to local  
39 regulation of smoking of tobacco products.

1 (b) For purposes of this section, an “owner-operated business”  
2 shall mean a business having no employees, independent  
3 contractors, or volunteers, in which the owner-operator of the  
4 business is the only worker. “Enclosed space” includes covered  
5 parking lots, lobbies, lounges, waiting areas, elevators, stairwells,  
6 and restrooms that are a structural part of the building and not  
7 specifically defined in subdivision (e).

8 (c) An employer or owner-operator of an owner-operated  
9 business shall not knowingly or intentionally permit, and a person  
10 shall not engage in, the smoking of tobacco products at a place of  
11 employment or in an enclosed space.

12 (d) For purposes of this section, an employer or owner-operator  
13 of an owner-operated business who permits any nonemployee  
14 access to his or her place of employment or owner-operated  
15 business on a regular basis has not acted knowingly or intentionally  
16 in violation of this section if he or she has taken the following  
17 reasonable steps to prevent smoking by a nonemployee:

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

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

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

26 (2) Has requested, when appropriate, that a nonemployee who  
27 is smoking refrain from smoking in the enclosed workplace or  
28 owner-operated business.

29 For purposes of this subdivision, “reasonable steps” does not  
30 include (A) the physical ejection of a nonemployee from the place  
31 of employment or owner-operated business or (B) any requirement  
32 for making a request to a nonemployee to refrain from smoking,  
33 under circumstances involving a risk of physical harm to the  
34 employer or any employee or owner-operator.

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

37 (1) Twenty percent of the guestroom accommodations in a hotel,  
38 motel, or similar transient lodging establishment.

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

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

5 (B) “Retail or wholesale tobacco shop” means any business  
6 establishment, the main purpose of which is the sale of tobacco  
7 products, including, but not limited to, cigars, pipe tobacco, and  
8 smoking accessories.

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

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

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

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

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

21 (f) The smoking prohibition set forth in this section constitutes  
22 a uniform statewide standard for regulating the smoking of tobacco  
23 products in enclosed places of employment and owner-operated  
24 businesses and supersedes and renders unnecessary the local  
25 enactment or enforcement of local ordinances regulating the  
26 smoking of tobacco products in enclosed places of employment  
27 and owner-operated businesses. Insofar as the smoking prohibition  
28 set forth in this section is applicable to all (100 percent) places of  
29 employment and owner-operated businesses within this state and,  
30 therefore, provides the maximum degree of coverage, the practical  
31 effect of this section is to eliminate the need of local governments  
32 to enact enclosed workplace smoking restrictions within their  
33 respective jurisdictions.

34 (g) This section does not prohibit an employer or owner-operator  
35 of an owner-operated business from prohibiting smoking of tobacco  
36 products in an enclosed place of employment or owner-operated  
37 business for any reason.

38 (h) The enactment of local regulation of smoking of tobacco  
39 products in enclosed places of employment or owner-operated  
40 businesses by local governments shall be suspended only for as

1 long as, and to the extent that, the (100 percent) smoking  
2 prohibition provided for in this section remains in effect. In the  
3 event this section is repealed or modified by subsequent legislative  
4 or judicial action so that the (100 percent) smoking prohibition is  
5 no longer applicable to all enclosed places of employment and  
6 owner-operated businesses in California, local governments shall  
7 have the full right and authority to enforce previously enacted, and  
8 to enact and enforce new, restrictions on the smoking of tobacco  
9 products in enclosed places of employment and owner-operated  
10 businesses within their jurisdictions, including a complete  
11 prohibition of smoking. Notwithstanding any other provision of  
12 this section, an area not defined as a “place of employment” or in  
13 which smoking is not regulated pursuant to subdivision (e), is  
14 subject to local regulation of smoking of tobacco products.

15 (i) A violation of the prohibition set forth in subdivision (c) is  
16 an infraction, punishable by a fine not to exceed one hundred  
17 dollars (\$100) for a first violation, two hundred dollars (\$200) for  
18 a second violation within one year, and five hundred dollars (\$500)  
19 for a third and for each subsequent violation within one year. This  
20 subdivision shall be enforced by local law enforcement agencies,  
21 including, but not limited to, local health departments, as  
22 determined by the local governing body.

23 (j) Notwithstanding Section 6309, the division is not required  
24 to respond to any complaint regarding the smoking of tobacco  
25 products in an enclosed space at a place of employment, unless  
26 the employer has been found guilty pursuant to subdivision (i) of  
27 a third violation of subdivision (c) within the previous year.

28 (k) If a provision of this section or the application thereof to  
29 any person or circumstances is held invalid, that invalidity shall  
30 not affect other provisions or applications of the section that can  
31 be given effect without the invalid provision or application, and  
32 to this end the provisions of this section are severable.

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

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

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

1 308. (a) (1) Every person, firm, or corporation that knowingly  
2 or under circumstances in which it has knowledge, or should  
3 otherwise have grounds for knowledge, sells, gives, or in any way  
4 furnishes to another person who is under 18 years of age any  
5 tobacco, cigarette, or cigarette papers, or blunt wraps, or any other  
6 preparation of tobacco, or any other instrument or paraphernalia  
7 that is designed for the smoking or ingestion of tobacco, tobacco  
8 products, or any controlled substance, is subject to either a criminal  
9 action for a misdemeanor or to a civil action brought by a city  
10 attorney, a county counsel, or a district attorney, punishable by a  
11 fine of two hundred dollars (\$200) for the first offense, five  
12 hundred dollars (\$500) for the second offense, and one thousand  
13 dollars (\$1,000) for the third offense.

14 Notwithstanding Section 1464 or any other law, 25 percent of  
15 each civil and criminal penalty collected pursuant to this  
16 subdivision shall be paid to the office of the city attorney, county  
17 counsel, or district attorney, whoever is responsible for bringing  
18 the successful action, and 25 percent of each civil and criminal  
19 penalty collected pursuant to this subdivision shall be paid to the  
20 city or county for the administration and cost of the community  
21 service work component provided in subdivision (b).

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

32 For purposes of this section, the person liable for selling or  
33 furnishing tobacco products to minors by a tobacco vending  
34 machine shall be the person authorizing the installation or  
35 placement of the tobacco vending machine upon premises he or  
36 she manages or otherwise controls and under circumstances in  
37 which he or she has knowledge, or should otherwise have grounds  
38 for knowledge, that the tobacco vending machine will be utilized  
39 by minors.

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

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

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

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

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

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

38 (2) An activity conducted by the State Department of Public  
39 Health, a local health department, or a law enforcement agency

1 for the purpose of determining or evaluating youth tobacco  
2 purchase rates.

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

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

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

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

26 (ii) *This subparagraph does not apply to the sale, giving, or*  
27 *furnishing of any of the products specified in clause (i) to active*  
28 *duty military personnel who are 18 years of age or older. An*  
29 *identification card issued by the United States Armed Forces shall*  
30 *be used as proof of age for this purpose.*

31 (B) Notwithstanding Section 1464 or any other law, 25 percent  
32 of each civil and criminal penalty collected pursuant to this  
33 subdivision shall be paid to the office of the city attorney, county  
34 counsel, or district attorney, whoever is responsible for bringing  
35 the successful action.

36 (C) Proof that a defendant, or his or her employee or agent,  
37 demanded, was shown, and reasonably relied upon evidence of  
38 majority shall be defense to any action brought pursuant to this  
39 subdivision. Evidence of majority of a person is a facsimile of or  
40 a reasonable likeness of a document issued by a federal, state,

1 county, or municipal government, or subdivision or agency thereof,  
2 including, but not limited to, a motor vehicle operator's license, a  
3 registration certificate issued under the federal Selective Service  
4 Act, or an identification card issued to a member of the Armed  
5 Forces.

6 (D) For purposes of this section, the person liable for selling or  
7 furnishing tobacco products to persons under 21 years of age by  
8 a tobacco vending machine shall be the person authorizing the  
9 installation or placement of the tobacco vending machine upon  
10 premises he or she manages or otherwise controls and under  
11 circumstances in which he or she has knowledge, or should  
12 otherwise have grounds for knowledge, that the tobacco vending  
13 machine will be utilized by persons under 21 years of age.

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

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

29 (c) For purposes of determining the liability of persons, firms,  
30 or corporations controlling franchises or business operations in  
31 multiple locations for the second and subsequent violations of this  
32 section, each individual franchise or business location shall be  
33 deemed a separate entity.

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

37 (e) For purposes of this section, "smoking" has the same  
38 meaning as in subdivision (c) of Section 22950.5 of the Business  
39 and Professions Code.

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

4 SEC. 25. Section 561 of the Public Utilities Code is amended  
5 to read:

6 561. (a) Every railroad corporation, passenger stage  
7 corporation, passenger air carrier, and street railroad corporation  
8 providing departures originating in this state shall prohibit the  
9 smoking of a tobacco product in the passenger seating area of  
10 every passenger car, passenger stage, aircraft, or other vehicle.

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

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

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

25 (e) 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 (f) 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. 26. Section 99580 of the Public Utilities Code is amended  
32 to read:

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

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

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

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

5 (4) Smoking a tobacco product, eating, or drinking in or on a  
6 system facility or vehicle in those areas where those activities are  
7 prohibited by that system.

8 (5) Expectoring upon a system facility or vehicle.

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

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

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

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

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

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

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

39 (B) If an eligible discount ticket user is not in possession of  
40 acceptable proof at the time of request, an issued notice of fare

1 evasion or passenger conduct violation shall be held for a period  
2 of 72 hours to allow the user to produce acceptable proof. If the  
3 proof is provided, that notice shall be voided. If the proof is not  
4 produced within that time period, that notice shall be processed.

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

10 (13) Failing to yield seating reserved for an elderly or disabled  
11 person.

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

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

19 (A) The agency issuing the notice of fare evasion or passenger  
20 conduct violation and the notice of delinquent fare evasion or  
21 passenger conduct violation.

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

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

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

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

36 (d) (1) If a fare evasion or passenger conduct violation is  
37 observed by a person authorized to enforce the ordinance, a notice  
38 of fare evasion or passenger conduct violation shall be issued. The  
39 notice shall set forth the violation, including reference to the  
40 ordinance setting forth the administrative penalty, the date of the

1 violation, the approximate time, and the location where the  
2 violation occurred. The notice shall include a printed statement  
3 indicating the date payment is required to be made, and the  
4 procedure for contesting the notice. The notice shall be served by  
5 personal service upon the violator. The notice, or copy of the  
6 notice, shall be considered a record kept in the ordinary course of  
7 business of the issuing agency and the processing agency, and  
8 shall be prima facie evidence of the facts contained in the notice  
9 establishing a rebuttable presumption affecting the burden of  
10 producing evidence.

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

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

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

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

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

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

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

4 (2) The amount of the administrative penalties.

5 (3) The number and types of citations administered pursuant to  
6 the ordinance.

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

12 (5) A discussion of the effect of the ordinance on passenger  
13 behavior.

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

19 (h) 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 (i) 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. 27. Section 12523 of the Vehicle Code is amended to  
26 read:

27 12523. (a) No person shall operate a youth bus without having  
28 in possession a valid driver’s license of the appropriate class,  
29 endorsed for passenger transportation and a certificate issued by  
30 the department to permit the operation of a youth bus.

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

1 (c) The driver certificate shall be issued only to applicants  
 2 qualified by examinations prescribed by the Department of Motor  
 3 Vehicles and the Department of the California Highway Patrol,  
 4 and upon payment of a fee of twenty-five dollars (\$25) for an  
 5 original certificate and twelve dollars (\$12) for the renewal of that  
 6 certificate to the Department of the California Highway Patrol.  
 7 The examinations shall be conducted by the Department of the  
 8 California Highway Patrol. The Department of Motor Vehicles  
 9 may deny, suspend, or revoke a certificate valid for driving a youth  
 10 bus for the causes specified in this code or in regulations adopted  
 11 pursuant to this code.

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

- 14 (1) Use seat belts.
- 15 (2) Refrain from smoking tobacco products.
- 16 (3) Report any accidents reportable under Section 16000 to the  
 17 Department of the California Highway Patrol.

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

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

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

29 SEC. 28. This act does not affect any laws or regulations  
 30 regarding medical cannabis.

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

1 Code, and (3) this bill is enacted after Assembly Bill 6 of the  
2 Second Extraordinary Session, Senate Bill 7 of the Second  
3 Extraordinary Session, and Assembly Bill 8 of the Second  
4 Extraordinary Session, in which case Section 2 of this bill shall  
5 not become operative.

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

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

34 SEC. 30. No reimbursement is required by this act pursuant to  
35 Section 6 of Article XIII B of the California Constitution because  
36 the only costs that may be incurred by a local agency or school  
37 district will be incurred because this act creates a new crime or  
38 infraction, eliminates a crime or infraction, or changes the penalty  
39 for a crime or infraction, within the meaning of Section 17556 of  
40 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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