

**Introduced by Senator Romero
(Principal coauthor: Senator Kuehl)**

December 2, 2002

An act to amend Sections 114710, 114990, and 115060 of, to add Section 25203.5 to, and to add Chapter 10 (commencing with Section 115300) to Part 9 of Division 104 of, the Health and Safety Code, and to add Section 43022.5 to the Public Resources Code, relating to radiation.

LEGISLATIVE COUNSEL'S DIGEST

SB 13, as introduced, Romero. Radiation Safety Act of 2003.

(1) The existing hazardous waste control law prohibits any person from managing any hazardous waste, except as provided in that law, or in the regulations adopted by the Department of Toxic Substances Control. A violation of the hazardous waste control laws is a crime.

This bill would prohibit the disposal of radioactive waste, as defined, at a hazardous waste disposal facility that is subject to the state hazardous waste control laws. The bill would authorize the department, in consultation with the California Integrated Waste Management Board and the State Department of Health Services, to adopt regulations and permit conditions relating to safety and monitoring procedures, and restrictions and limitations on maximum concentrations for, the disposal of TENORM, as defined.

Since the violation of these requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

(2) Existing law prohibits any person from burying, throwing away, or disposing of radioactive waste except in a manner that will result in no significant radioactive contamination of the environment.

The existing Radiation Control Law requires the State Department of Health Services, among other things, to issue licenses, and prohibits the state department from issuing a license to receive radioactive material for disposal unless specified requirements are satisfied, including that the land on which the radioactive waste is to be buried is owned by the federal or state government.

Under existing law, the Southwestern Low-Level Radioactive Waste Disposal Compact specifies that California is to serve as the state required to host the regional low-level radioactive waste disposal facility for the permanent isolation of low-level radioactive waste pursuant to specified federal requirements and the requirements of the host state. A violation of the provisions regulating radioactive waste is a crime.

This bill would exempt the disposal of solid or hazardous waste that contains TENORM at a solid or hazardous waste disposal facility from the licensing requirements imposed under the Radiation Control Law.

The bill would enact the Radiation Safety Act of 2003 and would require any license issued pursuant to the Radiation Control Law by the state department pursuant to that law to also comply with the restrictions of the Radiation Safety Act of 2003. The bill would prohibit the state department from adopting any exemption from the requirements of the Radiation Safety Act of 2003.

The bill would prohibit any generator or owner of radioactive waste from disposing of radioactive waste, or any materials containing byproduct, source, or special nuclear material, or transmitting to any person or entity for disposal, that material or waste, except at a specified licensed facility. The bill would prohibit any person from transferring for recycling radioactive material, as specified. The bill would also prohibit any person from transferring a radioactive material or an item containing contamination from a radioactive material, for reuse by a person who is not licensed, or transferring or delivering any radioactive material to a person not possessing a license or permit specifically authorized to possess radioactive material.

The bill would exclude from the act specified materials and activities, including the reuse or recycling of a radioactive item by an unlicensed federal entity, to the extent the item remains on the property, and under the control, of the federal entity. The bill would also exclude from the act the handling and disposal of wastes containing TENORM if those wastes meet specified criteria.



(3) The existing California Integrated Waste Management Act of 1989 requires the California Integrated Waste Management Board to adopt and review regulations setting forth standards for solid waste handling. The term “solid waste” is defined, for the purpose of the act, as excluding radioactive waste regulated pursuant to the Radiation Control Law and the board has no enforcement or regulatory authority with regard to a facility that accepts low-level radioactive waste.

This bill would prohibit any person from disposing of radioactive waste, as defined, and would prohibit a TENORM generator from submitting TENORM generated by petroleum and natural gas production and refining, geothermal production, or mining to a class III management unit, a class II waste management unit that receives specified amounts of decomposable solid waste, or an unclassified unit that receives inert waste.

The bill would authorize the board, in consultation with the Department of Toxic Substances Control, the State Water Resources Control Board, and the State Department of Health Services to adopt regulations relating to testing and screening criteria, safety and monitoring requirements, emergency response, and notification procedures and on the disposal of TENORM at those waste management units. The bill would permit any TENORM waste that is not a hazardous waste to be disposed of at a class II waste management unit that is dedicated primarily to the management of industrial or designated wastes. The bill would also authorize the enforcement agency, in consultation with those state agencies, to impose conditions when renewing a solid waste facility permit to restrict the disposal of solid waste material containing TENORM and radioactive waste.

(4) The bill would declare that the provisions of the bill are severable and that if any provision of the bill or its application is held invalid, that invalidity would not affect other provisions or applications that can be given effect without the invalid provision or application.

(5) 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:

SECTION 1. Section 25203.5 is added to the Health and Safety Code, to read:

25203.5. (a) Notwithstanding any other provision of law, no person may dispose of radioactive waste, as defined in subdivision (f) of Section 115301, at a hazardous waste disposal facility that is subject to this chapter.

(b) (1) The department, in consultation with the California Integrated Waste Management Board and the State Department of Health Services, may adopt regulations and establish permit conditions to implement this section. The regulations and permit conditions adopted pursuant to this section may include, but are not limited to, any of the following:

(A) Testing and screening criteria for radioactivity, worker and site safety and monitoring requirements, emergency response, radioactive waste handling and response procedures, and notification procedures.

(B) Restrictions or limits, including, but not limited to, maximum concentrations permitted for disposal of TENORM, as defined in subdivision (h) of Section 115301.

(2) If the department adopts regulations pursuant to this subdivision that prescribe maximum radioactive concentrations or establish limits on amounts or types of TENORM for disposal in a hazardous waste facility, any TENORM above those concentrations or limits shall be disposed of at a facility that possesses a license issued by one of the following to dispose of that particular type and amount of waste:

(A) The State Department of Health Services pursuant to Chapter 8 (commencing with Section 114960).

(B) The Nuclear Regulatory Commission.

(C) A state that has entered into an agreement pursuant to Section 2021 of Title 42 of the United States Code.

(3) Any permit conditions established by the department pursuant to this subdivision shall take effect at all affected facilities on the same date.

(c) The provisions of this section may not be construed as limiting the authority of the department to prohibit or otherwise regulate the disposal of wastes containing TENORM at hazardous

1 waste facilities as it determines necessary to protect public health,
2 safety, and the environment.

3 SEC. 2. Section 114710 of the Health and Safety Code is
4 amended to read:

5 114710. ~~As used in~~ *For the purposes of* this article the
6 following terms have the *following* meanings ~~described in this~~
7 ~~section.~~:

8 (a) “Department” means the State Department of Health
9 Services.

10 (b) “Environment” means all places outside the control of the
11 person responsible for the radioactive materials.

12 (c) “Field tracer study” is any project, experiment, or study
13 that includes provision for deliberate introduction of radioactive
14 material into the environment for experimental or test purposes.

15 (d) “Person” includes any association of persons,
16 copartnership or corporation.

17 (e) “Radiation,” or “ionizing radiation,” means gamma rays
18 and X-rays; alpha and beta particles, high-speed electrons,
19 neutrons, protons, and other nuclear particles; but not sound or
20 radio waves, or visible, infrared, or ultraviolet light.

21 (f) “Radioactive material” means any material or combination
22 of materials that spontaneously emits ionizing radiation.

23 (g) “Radioactive waste” means any radioactive material that
24 is discarded as nonusable.

25 (h) “Significant” or “significantly,” as applied to radioactive
26 contamination, means concentrations or amounts of radioactive
27 material as are likely to expose persons to ionizing radiation *or*
28 *radioactivity* equal to or greater than the guide levels published by
29 the Federal Radiation Council , *or its successor entity*.

30 (i) “Radiological monitoring” means the measurement of the
31 amounts and kinds of radioactive materials in the environment.

32 SEC. 3. Section 114990 of the Health and Safety Code is
33 amended to read:

34 114990. (a) The department is designated as the agency
35 responsible for the issuance of licenses *pursuant to this chapter*. In
36 carrying out its duties under this section, the department may enter
37 into an agreement with the Division of Occupational Safety and
38 Health and other state and local agencies to conduct technical
39 evaluations of license applications prior to issuance of licenses.

1 The agreements shall also include provisions for conducting
2 inspections in accordance with Section 115095.

3 *(b) Any license issued by the department pursuant to this*
4 *chapter shall also comply with the restrictions of Chapter 10*
5 *(commencing with Section 115300).*

6 SEC. 4. Section 115060 of the Health and Safety Code is
7 amended to read:

8 115060. (a) The department shall provide by rule or
9 regulation for general or specific licensing of persons to receive,
10 possess, or transfer radioactive materials, or devices or equipment
11 utilizing these materials. That rule or regulation shall provide for
12 amendment, suspension, or revocation of licenses.

13 (b) The department may require registration and inspection of
14 sources of ionizing radiation other than those that require a specific
15 license, and compliance with specific safety standards to be
16 adopted by the department.

17 (c) (1) The department may exempt certain sources of ionizing
18 radiation or kinds of uses or users from the licensing or registration
19 requirements set forth in this section when the department makes
20 a finding that the exemption of these sources of ionizing radiation
21 or kinds of uses or users will not constitute a significant risk to the
22 health and safety of the public.

23 (2) *Any exemption made pursuant to this subdivision shall be*
24 *adopted as a regulation pursuant to Chapter 3.5 (commencing*
25 *with Section 11340) of Part 1 of Division 3 of Title 2 of the*
26 *Government Code.*

27 (3) *The department may not adopt or grant any exemptions*
28 *from the requirements of Section 115302.*

29 (d) Regulations adopted pursuant to this chapter may provide
30 for recognition of other state or federal licenses as the department
31 may deem desirable, subject to registration requirements as the
32 department may prescribe.

33 (e) The department shall adopt registration and certification
34 regulations for mammography equipment. These regulations shall
35 include, but not be limited to, all of the following requirements:

36 (1) An X-ray machine used for mammography shall be
37 specifically designed for mammography and inspected by the
38 department, or deemed satisfactory by the department based upon
39 evidence of certification by the American College of Radiology
40 mammography accreditation program, or an accreditation

1 program that the department deems equivalent before it is
2 certified.

3 (2) That all persons who have a certificate for mammography
4 equipment follow a quality assurance program to be adopted by the
5 department to ensure the protection of the public health and safety.

6 (3) That quality assurance tests, as determined by the
7 department, are performed on all mammography equipment
8 located in a mobile van or unit after each relocation of the mobile
9 van or unit to a different location for the purpose of providing
10 mammography. This equipment shall be recalibrated if images are
11 not of diagnostic quality as determined by the department. A
12 written record of the location of mobile vans or units with dates
13 and times shall be maintained and available for inspection by the
14 department.

15 (4) ~~On or after July 15, 1993, all~~ All mammography equipment
16 shall be registered with and certified by the department. If this
17 mammography equipment is certified by a private accreditation
18 organization, the department shall take into consideration
19 evidence of this private certification when deciding to issue a
20 ~~mammogram~~ mammography certification.

21 (5) All licenses, permits, and certificates issued by the
22 department pursuant to this chapter and the Radiologic
23 Technology Act (~~Section 27~~) (*Chapter 6 (commencing with*
24 *Section 114840)*) relating to the use of mammography equipment
25 shall be publicly posted pursuant to this section and regulations
26 adopted by the department.

27 (f) To further ensure the quality of mammograms, the
28 department shall require all mammogram facilities, other than
29 mobile units or vans, to operate quickly and efficiently so as to
30 ensure that the facilities are able to develop mammograms of
31 diagnostic quality prior to when the patient leaves the facility.

32 (g) *The disposal of solid or hazardous wastes that contain*
33 *TENORM, as defined in subdivision (h) of Section 115301, at a*
34 *solid waste disposal facility or hazardous waste disposal facility*
35 *is exempt from the licensing requirements imposed by this section.*

36 SEC. 5. Chapter 10 (commencing with Section 115300) is
37 added to Part 9 of Division 104 of the Health and Safety Code, to
38 read:
39

CHAPTER 10. RADIATION SAFETY ACT OF 2003

115300. This chapter shall be known and may be cited as the Radiation Safety Act of 2003.

115301. For purposes of this chapter, unless otherwise specified, the following definitions shall only apply to this chapter:

(a) “Background” means the local level of radioactivity from nature of like materials without enhancement by human activity, plus the local levels of fallout from nuclear weapons testing and the local deposition of fallout from past nuclear accidents located elsewhere in the world, including, but not limited to, the nuclear accident in Chernobyl. “Background” shall be determined as a range of values using statistical tests and sampling protocols consistent with those specified in MARSSIM.

(b) “Best available technology” means any technique, equipment, technology, or methodology that the department finds to be most effective at detecting radiation or radioactivity, taking into consideration economic feasibility and commercial availability. If the department determines that a person’s existing equipment is equivalent to the best available technology, the equipment shall be deemed the “best available technology” for purposes of this definition without requiring the purchase of new equipment.

(c) “Generator” means any person, by site, whose act or process produces radioactive material or radioactive waste subject to this chapter or whose act causes a radioactive material or radioactive waste to become subject to this chapter.

(d) “MARSSIM” means the Multi-Agency Radiation Survey and Site Investigation Manual developed by the United States Department of Defense, Department of Energy, Nuclear Regulatory Commission, and Environmental Protection Agency, published as NUREG-1575, EPA 402-R-97-016, and DOE/EH-0624, and any current or future revisions.

(e) “Naturally occurring radioactive material” means material containing radionuclides that are naturally present in the environment in materials, including, but not limited to, rocks, soil, minerals, natural gas, petroleum, and ground or surface water at concentrations that occur naturally. Naturally occurring radioactive material does not include material containing only

1 radionuclides that are artificially created or any of the types of
2 radioactive material described in subdivision (g).

3 (f) “Radioactive waste” means any discarded radioactive
4 material with radioactivity above the background level when
5 measured with the best available technology.

6 (g) (1) “Radioactive material” includes, but is not limited to,
7 all of the following, when in concentrations in excess of the
8 background levels as measured with best available technology:

9 (A) Byproduct material, defined as either of the following:

10 (i) Any radioactive material, excluding special nuclear
11 material, that is yielded in, or made radioactive by, exposure to a
12 radiation incident to the process of producing or utilizing special
13 nuclear material.

14 (ii) Tailings or waste produced by the extraction or
15 concentration of uranium or thorium from any ore processed
16 primarily for its source material content, including, but not limited
17 to, discrete surface wastes resulting from solution extraction
18 processes. Underground ore bodies depleted by those solution
19 extraction operations are not byproduct material for the purposes
20 of this chapter.

21 (B) Source and special nuclear material, as defined in
22 subdivisions (e) and (f) of Section 114985.

23 (C) FUSRAP material, defined as any material containing
24 radioactivity from the Formerly Utilized Sites Remedial Action
25 Program, irrespective of the time and location of the generation of
26 that material, that does not otherwise meet the conditions of
27 subparagraph (A) or (B).

28 (D) Any other material determined by the department by
29 regulation to be radioactive material for the purposes of this
30 section. The department may not determine TENORM to be
31 radioactive material for the purposes of this section.

32 (2) “Radioactive material” as defined in this subdivision does
33 not include either of the following:

34 (A) TENORM.

35 (B) Any material listed in subdivisions (a) to (e), inclusive, of
36 Section 115303.

37 (h) “TENORM” means technologically enhanced naturally
38 occurring radioactive material that past or present human
39 activities, including, but not limited to, petroleum and natural gas
40 production and refining, geothermal production, and mining

1 operations unrelated to activities primarily intended to extract or
2 use uranium or thorium, have incidentally concentrated or
3 exposed to the accessible environment in concentrations in excess
4 of the naturally occurring local surface background. TENORM
5 does not include the radioactive materials described in paragraph
6 (1) of subdivision (g).

7 115302. (a) Except as provided in Section 115303, and
8 notwithstanding any other provision of law, no generator or owner
9 of radioactive waste may dispose of, or transmit to any person or
10 entity for disposal, radioactive waste in this state, except to a
11 facility possessing a specific license or permit issued pursuant to
12 Chapter 8 (commencing with Section 114960), or by the Nuclear
13 Regulatory Commission, to dispose of that particular type and
14 amount of radioactive waste.

15 (b) Except as provided in Section 115303, and notwithstanding
16 any other provision of law, no person may do any of the following:

17 (1) Transfer for recycling radioactive material, or material
18 containing radioactive contamination in the state, in a manner that
19 causes the radioactivity to be transferred or delivered to a person
20 who is not licensed pursuant to Chapter 8 (commencing with
21 Section 114960) or by the Nuclear Regulatory Commission.

22 (2) Transfer radioactive material or an item containing
23 contamination from a radioactive material, to a person for reuse
24 who is not licensed pursuant to Chapter 8 (commencing with
25 Section 114960) or by the Nuclear Regulatory Commission.

26 (3) Transfer or deliver radioactive material to a person not
27 possessing a license or permit specifically authorizing possession
28 of that radioactive material pursuant to Chapter 8 (commencing
29 with Section 114960) or by the Nuclear Regulatory Commission.

30 115303. This chapter does not apply to any of the following
31 materials or activities:

32 (a) Short-lived radioactive materials of the type that are
33 commonly used in medicine, biotechnology, and academia, that
34 are at the end of their storage-to-decay period, and that are
35 managed by an approved storage-to-decay program, including an
36 onsite facility or a centralized facility.

37 (b) Liquid and gaseous radioactive effluents and releases to
38 sanitary sewers, of the types, amounts, and concentrations
39 specified in the regulations adopted by the Nuclear Regulatory
40 Commission or the department.

(c) Scintillation liquids from research and animal tissues containing the amounts of tritium and carbon-14 specified in Section 20.2005 of Title 10 of the Code of Federal Regulations, as that section read on January 1, 2004.

(d) The technetium-99 associated with molybdenum-99 radioisotope generators of the type used in medicine.

(e) Radioactive materials intentionally inserted into products for their radioactive purpose and that are specifically exempted by the Nuclear Regulatory Commission from Part 30 (commencing with Section 30.1) and Part 40 (commencing with Section 40.1) of Title 10 of the Code of Federal Regulations, as those regulations read on the date of enactment of the Energy Policy Act of 1992 (P.L. 102-486).

(f) The reuse or recycling of a radioactively contaminated item by a person licensed to possess that item, pursuant to Chapter 8 (commencing with Section 114960) or by the Nuclear Regulatory Commission, to the extent that the item remains on the licensed site and is subject to regulatory control of its onsite use.

(g) The reuse or recycling of a radioactive item by an unlicensed federal entity, to the extent the item remains on the property of the federal entity and under its control.

(h) The handling and disposal of wastes containing TENORM that meet both of the following criteria:

(1) Do not also contain radioactive waste.

(2) Are below any limit established by the Department of Toxic Substances Control pursuant to subdivision (b) of Section 25203.5.

SEC. 6. Section 43022.5 is added to the Public Resources Code, to read:

43022.5. (a) Notwithstanding any other provision of law, no person may dispose of radioactive waste at a solid waste facility.

(b) (1) A TENORM generator may not submit TENORM generated by petroleum and natural gas production and refining, geothermal production, or mining for disposal at any of the following:

(A) A class III waste management unit.

(B) Any class II waste management unit that receives sufficient quantities of decomposable solid waste so that a landfill gas collection and control system is installed, is required to be

1 installed, or will be required to be installed, prior to closure of the
2 unit.

3 (C) An unclassified unit that is authorized to receive inert
4 waste.

5 (2) The board, in consultation with the Department of Toxic
6 Substances Control, the State Water Resources Control Board, and
7 the State Department of Health Services, may adopt regulations
8 restricting, prohibiting, or otherwise relating to the disposal of
9 additional types of wastes containing TENORM at waste
10 management units identified in paragraph (1).

11 (c) (1) Any TENORM waste that is not a hazardous waste may
12 be disposed of at a class II waste management unit that is dedicated
13 primarily to the management of industrial or designated wastes, as
14 defined in Section 13173 of the Water Code, if that class II waste
15 management unit does not receive sufficient quantities of
16 decomposable solid waste so that a landfill gas collection and
17 control system is installed, is required to be installed, or will be
18 required to be installed, prior to closure of the unit.

19 (2) The board, in consultation with the Department of Toxic
20 Substances Control, the State Water Resources Control Board, and
21 the State Department of Health Services, may adopt regulations
22 establishing requirements to implement this section. These
23 regulations may include, but are not limited to, testing and
24 screening criteria for radioactivity, worker and site safety and
25 monitoring requirements, emergency response, radioactive waste
26 handling and response procedures, and notification procedures.
27 The regulations may also establish restrictions, conditions, or
28 limits on concentrations, types, or amounts, of TENORM that may
29 be disposed of at any solid waste management unit.

30 (3) If the board adopts regulations that prescribe maximum
31 concentrations or establish limits on types or amounts of
32 TENORM pursuant to paragraph (2), any TENORM waste above
33 those maximum concentrations or limits may be disposed of only
34 in a permitted hazardous waste facility in accordance with Section
35 25203.5 of the Health and Safety Code or at a facility that
36 possesses a license issued by one of the following to dispose of that
37 particular type and amount of waste:

38 (A) The State Department of Health Services pursuant to
39 Chapter 8 (commencing with Section 114960) of the Health and
40 Safety Code.



1 (B) The Nuclear Regulatory Commission.

2 (C) A state that has entered into an agreement pursuant to
3 Section 2021 of Title 42 of the United States Code.

4 (d) The enforcement agency, in consultation with the state
5 board, the appropriate California regional water quality control
6 board, and the State Department of Health Services, may impose
7 conditions when renewing an individual solid waste facilities
8 permit to restrict the disposal of solid waste material containing
9 TENORM and radioactive waste, as defined in Section 115301 of
10 the Health and Safety Code. Any permit conditions imposed
11 pursuant to this subdivision shall be, at minimum, as restrictive as
12 the provisions of this section and regulations adopted by the state
13 board.

14 (e) The provisions of this section may not be construed as
15 limiting the authority of the state board or a California regional
16 water quality control board to prohibit or otherwise regulate the
17 disposal of solid waste material containing TENORM at solid
18 waste facilities.

19 (f) (1) An owner or operator of a solid waste facility may not
20 knowingly accept or dispose of radioactive waste in a manner
21 other than in accordance with this section and Part 9 (commencing
22 with Section 114650) of Division 104 of the Health and Safety
23 Code.

24 (2) An owner and operator of a solid waste facility may not be
25 deemed to have knowingly accepted nor disposed of radioactive
26 waste for the purposes of this subdivision if, at a minimum, the
27 owner and operator meets both of the following criteria:

28 (A) The owner or operator has not received any notice that the
29 waste contains radioactive material.

30 (B) On or before January 1, 2004, the owner or operator
31 implements all of the following mechanisms:

32 (i) Posts signs at the facility that provide notice to customers
33 that the facility is prohibited from accepting radioactive waste.

34 (ii) Provides an annual written notification to the customers of
35 the facility that the facility is prohibited from accepting
36 radioactive waste for disposal, or provides that notification on an
37 alternative frequency determined by the board or enforcement
38 agency.

1 (iii) Evaluates or monitors incoming wastes to detect the
2 presence of radioactive waste at the facility consistent with any
3 regulations adopted pursuant to this section.

4 (g) For the purposes of this section, the following terms have
5 the following meanings:

6 (1) “Class II waste management unit” has the same meaning
7 as defined in Section 20250 of Title 27 of the California Code of
8 Regulations and is a solid waste management unit that has been so
9 classified by a California regional water quality control board.

10 (2) “Class III waste management unit” has the same meaning
11 as defined in Section 20260 of Title 27 of the California Code of
12 Regulations and is a solid waste management unit that has been so
13 classified by a California regional water quality control board.

14 (3) “Radioactive waste” has the same meaning as defined in
15 subdivision (f) of Section 115301 of the Health and Safety Code.

16 (4) “TENORM” has the same meaning as defined in
17 subdivision (h) of Section 115301 of the Health and Safety Code.

18 (5) “Unclassified waste management unit” means a waste
19 management unit that receives solid waste but has not been
20 classified as a class I, class II, or class III waste management unit
21 by a California regional water quality control board.

22 (6) “TENORM generator” means any person, by site, whose
23 act or process produces TENORM or whose act first causes a
24 material to become TENORM.

25 SEC. 7. The provisions of this section are severable. If any
26 provision of this section or its application is held invalid, that
27 invalidity shall not affect other provisions or applications that can
28 be given effect without the invalid provision or application.

29 SEC. 8. No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 the only costs that may be incurred by a local agency or school
32 district will be incurred because this act creates a new crime or
33 infraction, eliminates a crime or infraction, or changes the penalty
34 for a crime or infraction, within the meaning of Section 17556 of
35 the Government Code, or changes the definition of a crime within
36 the meaning of Section 6 of Article XIII B of the California
37 Constitution.

