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SENATE BILL

No. 338

Introduced by Senator Gonzalez

~~(Coauthor: Assembly Member Lorena Gonzalez)~~

(Coauthors: Assembly Members Carrillo and Lorena Gonzalez)

February 8, 2021

An act to amend Section 2810.4 of the Labor Code, relating to private employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 338, as amended, Gonzalez. Joint and several liability of port drayage motor carrier customers: health and safety violations: prior offenders: liability owed to the state.

Existing law requires the Division of Labor Standards Enforcement to post on its internet website a list of port drayage motor carriers with unsatisfied court judgments, tax assessments, tax liens, or any order, decision, or award finding that the port drayage motor carrier has engaged in illegal conduct including failure to pay wages, imposing unlawful expenses on employees, and other labor violations. Existing law prohibits the division from placing the information on the internet website until the period for all judicial appeals has expired. Existing

law requires the division to remove a posting within 15 business days after the division determines there has been payment or settlement of the unsatisfied judgment, as specified. Existing law, except as specified, imposes joint and several liability on the port drayage motor carrier and any customer that obtained port drayage services after the date the port drayage motor carrier appeared on the division's list for all civil legal responsibility and liability owed to a port drayage driver, including unpaid wages, unreimbursed expenses, and damages and penalties that are due, as specified.

This bill would require the Division of Labor Standards Enforcement to post the information for a port drayage motor carrier that is a prior offender, as defined, with a subsequent judgment, ruling, citation, ~~decision, order,~~ *order, decision*, or award finding a violation of a labor or employment law or regulation, even if all periods for appeals have not expired. The bill would require the division to post the information only if it is provided to the division in a format acceptable to the division.

This bill would require the Division of Labor Standards Enforcement, if it receives notice that a prior offender that is listed on the division's internet ~~website~~ *webpage* has subsequently prevailed on appeal, to remove the posting for the prior offender within 15 business days after determining that there remains no other basis upon which to retain the prior offender's information on the internet ~~website~~ *webpage*. The bill would also require the division to remove a posting within 15 business days after the division determines, first, that there has been payment or settlement of the unsatisfied judgment or any other financial liabilities and, second, that the port drayage motor carrier has submitted certification, under penalty of perjury, that all identified violations have been remedied or abated and, after the division issues certain regulations, sufficient documentation that all violations have been remedied or sufficiently abated, as specified. By expanding the crime of perjury, this bill would impose a state-mandated local program.

This bill would expand the liability of a customer of a listed port drayage motor carrier to also include the civil legal responsibility and civil liability owed to the state for port drayage services obtained after the date the motor carrier appeared on the prior offender list. The bill would add, in this regard, potential responsibility and liability for employment tax assessments issued by the state and civil liability stemming from the motor carrier's failure to comply with applicable health and safety laws, rules, or regulations.

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. The Legislature finds and declares all of the
2 following:

3 (a) The port drayage industry is a vital part of California’s goods
4 movement economy and employs an estimated 25,000 drivers who
5 move freight between California’s ports and distribution centers.

6 (b) California’s port drayage drivers are the last American
7 sharecroppers, held in debt servitude and working dangerously
8 long hours for little pay.

9 (c) An investigation by USA Today found that “port trucking
10 companies in Southern California have spent the past decade
11 forcing drivers to finance their own trucks by taking on debt they
12 could not afford.” The investigation found instances where drivers
13 “end up owing money to their employers – essentially working
14 for free.”

15 (d) A common practice is for a company that owns port drayage
16 trucks to enter into a sublease agreement with drivers, with the
17 promise that they will own the truck someday. Drivers can be
18 terminated at any time and lose the money they thought they were
19 paying toward the truck. Companies deduct money from driver
20 paychecks for business expenses that lead to poverty wages or to
21 the driver owing the company money.

22 (e) Drayage drivers at California ports are routinely misclassified
23 as independent contractors when they in fact work as employees
24 under California and federal labor laws. A recent report finds that
25 two-thirds of California port drayage drivers are misclassified as
26 independent contractors, and rampant misclassification of drivers
27 contributes to wage theft and leaves drivers in a cycle of poverty.

28 (f) Companies can violate labor laws and misclassify employees
29 when they control the manner and means of the work, set wages
30 and hours, and in other ways act as an employer.

1 (g) Port drayage drivers are a largely immigrant workforce and
2 particularly vulnerable to labor exploitation. As immigrant workers,
3 many of these workers are often fearful to report violations to state
4 agencies or are unaware of their rights, depriving them of access
5 to critical safety net benefits by virtue of their misclassification.

6 (h) The COVID-19 pandemic has highlighted the impact of
7 misclassification on worker health and safety and on public health.
8 Drayage drivers, a largely low-wage immigrant workforce
9 concentrated in southern California, are among the groups that
10 have been hardest hit by the COVID-19 pandemic. During the
11 COVID-19 pandemic, drivers who are misclassified have been
12 illegally denied paid sick leave, have not been provided with
13 mandated personal protective equipment, and have not had access
14 to workers' compensation benefits if they contract the virus on the
15 job. This puts the drivers, their families, and other workers in the
16 supply chain at risk and significantly undermines the ability of the
17 state and public health officials to get the spread of the virus under
18 control.

19 (i) The COVID-19 pandemic has also highlighted the incredible
20 strain that misclassification puts on the state and state agencies
21 tasked with administering safety net benefits such as unemployment
22 insurance and disability benefits. These state agencies have spent
23 an inordinate amount of time processing and investigating cases
24 where port truck drivers have claimed benefits but have been
25 misclassified, sometimes taking months to make a determination
26 that the employee is misclassified and is entitled to benefits and
27 sometimes wrongly denying these port truck drivers benefits. Port
28 truck drivers have thus been forced both to wait months for benefits
29 and to expend their own and agency resources fighting these
30 incorrect determinations.

31 (j) The Division of Labor Standards Enforcement in the office
32 of the Labor Commissioner, has awarded in excess of \$50,000,000
33 in unlawful deductions from wages and out-of-pocket expenses to
34 more than 500 drivers. No court has overturned these awards on
35 appeal.

36 (k) Misclassification remains endemic in the industry. Many
37 companies that commit violations go out of business and are
38 replaced by others, or even the same entity under a different name,
39 that repeat the pattern. Both workers and the state are often unable
40 to act quickly enough or expend the necessary resources to collect

1 from these defunct or fraudulently reorganized companies. Even
2 when companies do not shut down after having been found to have
3 violated the law, those companies will settle out the monetary
4 aspects of the case but will continue misclassifying their drivers
5 as independent contractors, thereby perpetuating the systemic and
6 nefarious business practices that they, and their customers, benefit
7 from at the expense of drivers.

8 (l) The mistreatment of port drayage drivers has been known
9 for more than a decade, and the Ports of Los Angeles and Long
10 Beach attempted to address misclassification of drayage drivers
11 in 2008 through their Clean Air Action Plan by requiring drivers
12 to be classified as employees. The Ninth Circuit Court of Appeals
13 struck down that requirement.

14 (m) State and federal courts have consistently upheld the Labor
15 Commissioner’s authority to adjudicate port drayage driver claims
16 and found that federal law does not preempt the state’s interest in
17 enforcing labor laws meant to protect drivers from wage theft and
18 to provide other basic protections to employees.

19 (n) Independent studies have found that misclassifying
20 employees undercuts fair competition by legitimate employers and
21 creates an economic incentive for others to break the rules.

22 (o) Nationwide, according to the National Employment Law
23 Project, in a paper titled, “The Big Rig Overhaul: Restoring
24 Middle-Class Jobs at America’s Ports Through Labor Law
25 Enforcement” (2014), as much as \$485,000,000 in workers’
26 compensation premiums and \$60,000,000 in federal taxes go
27 unpaid in the drayage industry.

28 (p) More than 40 percent of United States shipping-container
29 traffic flows through the Ports of Los Angeles and Long Beach.
30 Port drivers are a critical link in the global supply chain and they
31 need to share the benefits of this economic engine.

32 (q) Customers of port drayage are some of the world’s largest
33 retail and manufacturing companies. After more than a decade of
34 rulings, media stories, and independent reports, they should be
35 aware of the widespread labor violations in the drayage industry.

36 (r) Customers of port drayage represent some of the wealthiest
37 companies in the world. Many of these companies have reported
38 record profits even in the midst of a pandemic that has devastated
39 businesses in other sectors and has resulted in employees across
40 the country—including port truck drivers—losing work and having

1 to rely on the social safety nets that motor carriers do not contribute
2 to when they misclassify their drivers.

3 (s) The Legislature established, with the enactment of Assembly
4 Bill 1897 in 2014, that business entities that are provided workers
5 from subcontractors can be jointly liable for the nonpayment of
6 wages and failure to provide unemployment insurance by the
7 subcontractor.

8 (t) Holding customers of trucking companies jointly liable for
9 future labor, employment, and health and safety law violations by
10 port drayage motor carriers whom they engage and of whose prior
11 violations of labor, employment, or health and safety laws the
12 customers received advance notice will exert pressure across the
13 supply chain to protect drayage drivers from further exploitation.

14 (u) Customers have the market power to exert meaningful
15 change in the port drayage industry that has eluded California
16 drivers for more than a decade.

17 (v) This is a remedial measure intended to better enable labor
18 law enforcement of port drayage services.

19 SEC. 2. Section 2810.4 of the Labor Code is amended to read:

20 2810.4. (a) As used in this section:

21 (1) “Commercial driver” means a person who holds a valid
22 commercial driver’s license who is hired or contracted to provide
23 port drayage services either as an independent contractor or an
24 employee driver.

25 (2) (A) “Customer” means a business entity, regardless of its
26 form, that engages or uses a port drayage motor carrier to perform
27 port drayage services on the customer’s behalf, whether the
28 customer directly engages or uses a port drayage motor carrier or
29 indirectly engages or uses a port drayage motor carrier through
30 the use of an agent, including, but not limited to, a freight
31 forwarder, motor transportation broker, ocean carrier, or other
32 motor carrier.

33 (B) “Customer” does not include any of the following:

34 (i) A business entity with a workforce of fewer than 25 workers,
35 including those hired directly by the customer or through a
36 temporary employer or labor contractor.

37 (ii) The state or any political subdivision of the state, including
38 any city, county, city and county, or special district.

39 (iii) A business entity, including, but not limited to, a marine
40 terminal operator, who is not a customer, and who, incidental to

1 the transportation of the freight for the customer, receives, makes
2 available, or exchanges intermodal equipment, loaded or unloaded,
3 or conducts any other transaction of equipment subject to an
4 equipment interchange agreement with a motor carrier who is a
5 signatory to an equipment interchange agreement.

6 (3) *“Internet webpage” refers only to the port drayage motor*
7 *carrier list that the Division of Labor Standards Enforcement is*
8 *required to update and maintain pursuant to subdivision (b) and*
9 *shall not be construed to apply to any other information about*
10 *wage claims, investigations, citations, judgments, or other activities*
11 *that the Division of Labor Standards Enforcement may provide to*
12 *the public through its internet website.*

13 ~~(3)~~

14 (4) “Labor” has the same meaning provided by Section 200.

15 ~~(4)~~

16 (5) (A) “Port drayage motor carrier” means an individual or
17 entity that hires or engages commercial drivers in the port drayage
18 industry.

19 (B) “Port drayage motor carrier” also means a registered owner,
20 lessee, licensee, or bailee of a commercial motor vehicle, as defined
21 in subdivision (b) of Section 15210 of the Vehicle Code, that
22 operates or directs the operation of a commercial motor vehicle
23 by a commercial driver on a for-hire or not-for-hire basis to perform
24 port drayage services in the port drayage industry.

25 (C) “Port drayage motor carrier” also means an entity or
26 individual who succeeds in the interest and operation of a
27 predecessor port drayage motor carrier consistent with the
28 provisions of Section 2684.

29 ~~(5)~~

30 (6) “Port” means any sea or river port located in this state.

31 ~~(6)~~

32 (7) “Port drayage services” means the movement within
33 California of cargo or intermodal equipment by a commercial
34 motor vehicle whose point-to-point movement has either its origin
35 or destination at a port, including any interchange of power units,
36 chassis, or intermodal containers, or the switching of port drayage
37 drivers that occurs during the movement of that freight. It shall
38 not include employees performing the intra-port or inter-port
39 movement of cargo or cargo handling equipment under the control
40 of their employers.

1 ~~(7)~~

2 (8) “Prior offender” means a port drayage motor carrier that has
3 had at least one of the following:

4 (A) A final court judgment, tax assessment, or tax lien that may
5 be released to the public under federal and state disclosure laws
6 and which arose from unlawful conduct relating to the
7 misclassification of employees as independent contractors.

8 (B) A final Labor Commissioner citation or a Labor
9 Commissioner order, decision, or award that arose from unlawful
10 conduct relating to the misclassification of employees as
11 independent contractors.

12 ~~(8)~~

13 (9) “Wages” has the same meaning provided by Section 200
14 and all sums payable to an employee or the state based upon any
15 failure to pay wages, as provided by law.

16 (b) (1) (A) The Division of Labor Standards Enforcement shall
17 post on its internet-~~website~~ *webpage* the names, addresses, and
18 essential information for a port drayage motor carrier with an
19 unsatisfied final court judgment, tax assessment, or tax lien that
20 may be released to the public under federal and state disclosure
21 laws, including any order, decision, or award obtained by a public
22 or private person or entity pursuant to Section 98.1 finding that a
23 port drayage motor carrier has engaged in illegal conduct including
24 failure to pay wages, imposing unlawful expenses on employees,
25 failure to remit payroll taxes, failure to provide workers’
26 compensation insurance, or misclassification of employees as
27 independent contractors with regard to a port drayage commercial
28 driver.

29 (B) The Division of Labor Standards Enforcement shall post
30 on its internet-~~website~~, *webpage*, to the extent permitted by federal
31 and state disclosure laws, a list consisting of the names, addresses,
32 and essential information for a prior offender with a subsequent
33 judgment, ruling, citation, order, decision, or award finding that
34 the port drayage motor carrier has violated a labor or employment
35 law or regulation, even if all periods for appeals have not expired.
36 If the Division of Labor Standards Enforcement receives notice
37 that a prior offender that is listed on the division’s internet-~~website~~
38 *webpage* pursuant to this subparagraph has subsequently prevailed
39 on appeal, the division shall remove the posting for the prior
40 offender within 15 days after the division has determined that there

1 remains no other basis under this section upon which to retain the
2 prior offender’s information on the internet ~~website~~. *webpage*. The
3 Division of Labor Standards Enforcement shall be required to post
4 the prior offender to this list on the internet ~~website~~ *webpage* only
5 if notice of the subsequent and prior judgment, ruling, citation,
6 order, decision, or award is provided in a manner and format that
7 is acceptable to the Division of Labor Standards Enforcement.

8 (C) Except as provided in subparagraph (B), the Division of
9 Labor Standards Enforcement shall not place the information
10 required to be posted by this paragraph on the internet ~~website~~
11 *webpage* until the period for all judicial appeals has expired.

12 (D) A posting required by this paragraph shall be removed
13 within 15 business days after the Division of Labor Standards
14 Enforcement determines, first, that there has been full payment of
15 an unsatisfied judgment or any other financial liabilities for all
16 violations identified pursuant to subparagraphs (A) and (B) or that
17 the port drayage motor carrier has entered into an approved
18 settlement dispensing of the judgment or liabilities and, second,
19 that both of the following conditions have been satisfied:

20 (i) The port drayage motor carrier has submitted certification,
21 under penalty of perjury, that all violations identified pursuant to
22 subparagraphs (A) and (B) have been remedied or abated.

23 (ii) On and after the date that the Division of Labor Standards
24 Enforcement adopts regulations describing what constitutes
25 “sufficient documentation” for purposes of this clause, the port
26 drayage motor carrier has submitted sufficient documentation that
27 all violations identified pursuant to subparagraphs (A) and (B)
28 have been remedied or sufficiently abated.

29 (2) No less than 15 business days before posting on its internet
30 ~~website~~ *webpage* the names, addresses, and essential information
31 for any port drayage motor carrier pursuant to paragraph (1), the
32 Division of Labor Standards Enforcement shall provide notification
33 by certified mail to the port drayage motor carrier which, at a
34 minimum, shall include all of the following:

35 (A) The name, email address, and telephone number of a contact
36 person at the division.

37 (B) The alleged conduct and a copy of the citation, unsatisfied
38 court judgment, assessment, order, decision, or award.

1 (C) A copy of the regulations or rules of practice or procedure
2 adopted pursuant to subdivision (l) or (m) for removal of the
3 posting.

4 (3) A customer that, as part of its business, engages or uses a
5 port drayage motor carrier that is on the list established pursuant
6 to paragraph (1) to perform port drayage services shall share with
7 the motor carrier or the motor carrier's successor all civil legal
8 responsibility and civil liability owed to a port drayage driver or
9 to the state for port drayage services obtained after the date the
10 motor carrier appeared on the list, meaning joint and several
11 liability with the motor carrier for the full amount of unpaid wages,
12 unreimbursed expenses, damages, and penalties, including
13 applicable interest and all other amounts that are found due for all
14 of the following:

15 (A) Minimum, regular, or premium wages that are unpaid by
16 the motor carrier, including any wages that are found due under
17 Section 226.7, 227.3, or 246.

18 (B) Unlawful deductions by the motor carrier from wages
19 pursuant to Section 2802.

20 (C) Out-of-pocket business expenses incurred by the commercial
21 driver that are not reimbursed by the motor carrier as required
22 pursuant to Section 2802.

23 (D) Civil penalties for the failure to secure valid workers'
24 compensation coverage as required by Section 3700.

25 (E) Employment tax assessments issued by the state.

26 (F) Civil liability stemming from the motor carrier's failure to
27 comply with applicable health and safety laws, rules, or regulations.

28 (G) Damages or penalties as provided for by law that are due
29 to the commercial driver or the state based upon the failure of the
30 motor carrier to pay wages owed, including those set forth under
31 Sections 203, 226, 226.8, 248.5, 558, 1194.2, and 1197.1.

32 (H) Applicable interest due for any sum described above.

33 (4) Pursuant to paragraph (3), each and every customer that
34 engages or uses a port drayage motor carrier to provide port
35 drayage services in a given workweek shall be jointly and severally
36 liable with the motor carrier for the full amount of all unpaid
37 wages, unreimbursed expenses, damages, and penalties, including
38 applicable interest, which are found owed by the motor carrier for
39 that workweek. The customer shall be jointly and severally liable
40 from the time the driver is dispatched to begin work on behalf of

1 the customer until all tasks are completed incidental to that work,
2 including the return of an unladen chassis or intermodal container
3 to its point of origin, and the driver is ready to be dispatched to
4 haul freight on behalf of another customer.

5 (5) Except as provided in subparagraphs (B), (C), and (D) of
6 paragraph (1) of this subdivision, the Division of Labor Standards
7 Enforcement shall update its internet-~~website~~ *webpage* monthly
8 by the fifth day of each month.

9 (c) A customer's liability under this section shall be determined
10 by either one of the following:

11 (1) The Labor Commissioner, in an administrative proceeding
12 pursuant to Section 98, de novo appeal under Section 98.2, or
13 pursuant to the Labor Commissioner's citation authority under this
14 code.

15 (2) By a court in a civil action brought by the Labor
16 Commissioner, or by a commercial driver or their representative,
17 where at least 30 business days prior to filing the civil action, the
18 Labor Commissioner, or commercial driver or representative,
19 notifies the customer of its potential joint and several liability for
20 any of the wages, expenses, damages, or penalties listed in
21 paragraph (3) of subdivision (b). No civil action for a violation or
22 enforcement of this section shall be brought pursuant to Part 13
23 (commencing with Section 2698) of Division 2.

24 (d) The joint and several liability provided by this section shall
25 not apply as follows:

26 (1) To customers who engage or use a port drayage motor carrier
27 whose employees are covered by a bona fide collective bargaining
28 agreement, if the agreement expressly provides for wages, hours
29 of work, working conditions, a process to resolve disputes
30 concerning nonpayment of wages, expenses, damages, and
31 penalties listed in paragraph (3) of subdivision (b), including
32 applicable interest, and a waiver of the joint and several liability
33 provided by this section.

34 (2) Where the customer and port drayage motor carrier had an
35 existing contract for port drayage services at the time a port drayage
36 motor carrier is listed on the internet-~~website~~ *webpage* maintained
37 by the Division of Labor Standards Enforcement and the customer
38 wishes to terminate the agreement, joint and several liability shall
39 not apply until the expiration of the existing contract or a period
40 of 90 business days following the listing, whichever is shorter.

1 This paragraph does not apply to contracts entered into,
2 renegotiated, or extended after the date a port drayage motor carrier
3 is listed on the internet-~~website~~: *webpage*.

4 (3) Where a port drayage motor carrier is not listed on the
5 Division of Labor Standards Enforcement's internet-~~website~~
6 *webpage* pursuant to subdivision (b).

7 (4) Where a port drayage motor carrier satisfied the conditions
8 for removal from the internet-~~website~~ *webpage* pursuant to
9 paragraph (1) of subdivision (b) prior to the time period for which
10 the joint and several liability is alleged.

11 (e) A port drayage motor carrier that provides port drayage
12 services to a customer, prior to providing these services to the
13 customer, shall furnish the text of this section and written notice
14 to the customer of any of the following:

15 (1) Any unsatisfied final judgments against the motor carrier
16 for unpaid wages, damages, unreimbursed expenses, and penalties,
17 including applicable interest.

18 (2) *A final order from the Occupational Safety and Health*
19 *Appeals Board regarding a citation, notice, order, or special order*
20 *from the Division of Occupational Safety and Health finding that*
21 *the employer has committed a serious violation that remains*
22 *unabated, unremedied, or unsatisfied following the period for*
23 *which any appeal may be made.*

24 ~~(2)~~

25 (3) If the motor carrier is a prior offender, a subsequent
26 judgment, ruling, citation, ~~decision, order, order, decision~~, or award
27 that the Division of Labor Standards Enforcement is required to
28 post on its internet-~~website~~ *webpage* pursuant to subdivision (b).

29 (f) A port drayage motor carrier that provides port drayage
30 services to a customer shall provide, within 30 business days of
31 entry of the judgment, written notice of any unsatisfied final
32 judgments against the motor carrier for unpaid wages, damages,
33 unreimbursed expenses, and penalties, including applicable interest,
34 to any customer to which the motor carrier is presently providing
35 port drayage services.

36 (g) The failure of the motor carrier to provide notice under
37 subdivision (e) or (f) shall not be a defense to the joint and several
38 liability provided by this section.

39 (h) A customer or port drayage motor carrier shall not take any
40 adverse action against any commercial driver for providing

1 notification of violations or filing a claim or civil action pertaining
2 to unpaid wages, unreimbursed expenses, or the recovery of
3 damages and penalties, including applicable interest.

4 (i) The remedies provided by this section are in addition to, and
5 shall be supplemental of, any other theories of liability or
6 requirement established by statute or common law.

7 (j) Two or more parties who are held jointly and severally liable
8 under this section after a final judgment is rendered by the court
9 shall not be prohibited from establishing, exercising, or enforcing
10 by contract or otherwise, any lawful or equitable remedies,
11 including, but not limited to, a right of contribution and indemnity
12 against each other for liability created by acts of a port drayage
13 motor carrier.

14 (k) Pursuant to the Labor Commissioner's citation authority, a
15 customer or a port drayage motor carrier shall provide to the Labor
16 Commissioner any information within its possession, custody, or
17 control required to verify compliance with applicable state laws.
18 Upon request, the records that contain this information shall be
19 made available promptly for inspection, and the Labor
20 Commissioner shall be permitted to copy them.

21 (l) The Labor Commissioner may adopt regulations and rules
22 of practice and procedure necessary to administer and enforce the
23 provisions of subdivisions (b) and (k) that are under their
24 jurisdiction.

25 (m) The Employment Development Department may adopt
26 regulations and rules of practice and procedure necessary to
27 administer and enforce the provisions of subdivision (b) that are
28 under its jurisdiction.

29 (n) A waiver of this section is contrary to public policy, and is
30 void and unenforceable.

31 (o) The provisions of this section are severable. If any provision
32 of this section or its application is held invalid, that invalidity shall
33 not affect other provisions or applications that can be given effect
34 without the invalid provision or application.

35 SEC. 3. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 the only costs that may be incurred by a local agency or school
38 district will be incurred because this act creates a new crime or
39 infraction, eliminates a crime or infraction, or changes the penalty
40 for a crime or infraction, within the meaning of Section 17556 of

- 1 the Government Code, or changes the definition of a crime within
- 2 the meaning of Section 6 of Article XIII B of the California
- 3 Constitution.

O