

2016

Adult Films. Condoms. Health Requirements. Initiative Statute.

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PROPOSITION **ADULT FILMS. CONDOMS. HEALTH REQUIREMENTS.**
60 INITIATIVE STATUTE.

OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

- Requires performers in adult films to use condoms during filming of sexual intercourse.
- Requires producers of adult films to pay for performer vaccinations, testing, and medical examinations related to sexually transmitted infections.
- Requires producers of adult films to obtain state health license, and to post condom requirement at film sites.
- Imposes liability on producers for violations, on certain distributors, on performers if they have a financial interest in the film involved, and on talent agents who knowingly refer performers to noncomplying producers.
- Permits state, performers, or any state resident to enforce violations.

SUMMARY OF LEGISLATIVE ANALYST'S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:

- Likely reduction of state and local tax revenues of several million dollars per year.
- Increased state costs that could exceed \$1 million annually to license and regulate adult film production and to enforce workplace health and safety rules. These costs would be offset to some extent by new fee revenue.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

California Is the Leading Adult Film Industry Location.

Many adult films are made in the San Fernando Valley of Los Angeles (a long-time center of adult film production) and elsewhere in California. (Adult films are also commonly called “pornography.”) A number of media companies produce adult films here, which consumers mostly view over the Internet. Some adult film performers also own businesses that produce, finance, or distribute content. These businesses include websites and social media platforms where the performers promote their own videos and photos.

State Laws Protect Worker Safety and Health. State law imposes a variety of requirements on employers to protect their employees from harm in the workplace. The state Division of Occupational Safety and Health (Cal/OSHA) enforces regulations to protect workers from workplace hazards. A state board, appointed by the Governor, is responsible for adopting and updating these workplace health and safety regulations. Performers and other workers on adult film sets, such as directors and camera operators, may be exposed to a variety of health and safety hazards while working there. These range from typical workplace health and safety issues (like inadequate first aid kits in the workplace) to other risks specific to adult film sets—such as contact with potentially infectious body fluids, especially semen, while making or performing in a film.

Cal/OSHA Already Requires Adult Film Condom Use.

Cal/OSHA considers exposure to certain body fluids a workplace hazard. This is because harmful sexually transmitted infections (STIs)—like chlamydia, hepatitis B, and the human immunodeficiency virus (HIV)—spread from infected people to healthy people through contact with blood and certain other body

fluids. For this reason, current state regulations generally require employers to provide and ensure that their employees use protective equipment to prevent contact with certain body fluids in the workplace. In enforcing these regulations, Cal/OSHA is requiring performers to use condoms during sex on adult film sets. Cal/OSHA generally enforces these rules by responding to complaints. Over the two-year period of 2014 and 2015, Cal/OSHA cited four production companies for violations of these regulations.

Los Angeles County Law Specifically Requires Adult Film Condom Use.

In November 2012, voters in Los Angeles County approved a ballot measure (Measure B) that specifically requires performers to use condoms during sex on adult film sets there.

Industry Practice Varies. Some adult film productions currently require or allow performers to wear condoms. However, despite state and local regulations, other producers and performers prefer to make adult films without condoms or other protective equipment. Parts of the industry instead use regular STI testing that aims to confirm that performers are free of harmful infections.

PROPOSAL

Proposition 60 places in the California Labor Code additional requirements, as summarized in Figure 1, related to workplace health and safety on adult film sets in this state. This measure specifically applies to sexual intercourse on adult film sets “in which performers actually engage in vaginal or anal penetration by a penis.”

Clarifies State Labor Code to Specifically Require Condoms.

This measure clarifies how some key provisions of existing workplace health and safety

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

Figure 1

Proposition 60 Would Place Additional Requirements on Adult Film Industry

- Clarifies existing workplace health and safety rules by adding a specific condom requirement to the California Labor Code.
- Requires adult film producers be licensed and provide information to the state about adult film shoots.
- Expands the time frame for enforcement of some adult film workplace health and safety violations.
- Makes distributors and agents potentially liable for violations of some adult film workplace rules.
- Allows in some cases any California resident to bring a civil lawsuit against producers for some adult film workplace health and safety violations.

rules apply specifically to the adult film industry. It puts into the Labor Code a specific requirement that adult film producers provide condoms and ensure that performers use them (as opposed to the existing, general workplace health and safety regulations about preventing contact with blood and certain other body fluids). This measure states that the condoms do not have to be visible in films distributed to consumers. However, adult film producers would need to be able to prove that performers actually used condoms.

Other Requirements on Adult Film Producers. This proposition requires adult film producers to be licensed by Cal/OSHA every two years and to notify Cal/OSHA whenever they make an adult film. Adult film producers would pay fees to Cal/OSHA to administer these new requirements. In addition, adult film producers would be required to pay for the costs of performers' work-related STI prevention vaccines, STI tests, and medical examinations. The measure also requires adult film producers to keep records showing that they complied with the new requirements.

Expanded Time Frame for Enforcement. Under current law, Cal/OSHA generally has six months from the time of a workplace violation to complete its investigation and issue a citation. The proposition allows enforcement actions for these adult film violations to be started within one year after the violation is or should have been discovered.

Expands Liability for Certain Workplace Health and Safety Violations. In addition to adult film producers, the measure makes adult film distributors and talent agents potentially liable for workplace health and safety violations placed into law by this measure. The measure also sets financial penalties for violations of these requirements.

Allows Individuals to Bring Lawsuits on Regulatory Violations. Under the measure, any California resident

could request Cal/OSHA to address some alleged adult film workplace health and safety violations. If Cal/OSHA does not take certain actions within specific time frames, that person could file a civil action against the adult film producer. If the individual prevails, he or she would be able to recover their legal costs and receive 25 percent of any penalties paid by a defendant in such a lawsuit, with the rest being paid to the state. The measure provides that its penalties will not apply to adult film performers or employees, so long as those individuals have no financial interest in a film and are not

producers of the film.

FISCAL EFFECTS

Likely Reductions in Tax Revenue. Industry participants would respond to this measure's increased regulatory and enforcement requirements in many ways. Some parts of the adult film industry would comply with the measure while others might choose to relocate outside of California. It is also possible that some adult film producers would try to evade state and local law enforcement while continuing to make adult films here. Adult film wages and business income in California would likely decline and, as a result, the measure would likely reduce state and local tax revenues by several million dollars per year.

Regulatory and Enforcement Costs and Revenues. The ongoing state government costs to implement this law could exceed \$1 million annually. Most of the costs would be covered by new fees on adult film producers. Any penalty revenue would be deposited into the state General Fund.

Other Public Budget Effects. The measure could have other fiscal effects on California governments. For example, a reduction in employment in the adult film industry could result in a minor increase in state or local costs for health or social services programs. The measure could also result in fewer transmissions of STIs, which could somewhat reduce state or local costs for publicly funded health programs. Overall, the net effect on publicly funded health and social services programs probably would be minor.

Visit <http://www.sos.ca.gov/measure-contributions> for a list of committees primarily formed to support or oppose this measure. Visit <http://www.fppc.ca.gov/transparency/top-contributors/nov-16-gen-v2.html> to access the committee's top 10 contributors.

★ ARGUMENT IN FAVOR OF PROPOSITION 60 ★

Nobody should have to risk their health in order to keep their job!

A *YES* vote for Prop. 60 is a vote to protect California adult film workers from disease. Porn producers refuse to provide a safe workplace for their performers. As a result, thousands of workers have been exposed to serious and life-threatening diseases. *It is time to hold the pornographers accountable for worker safety and health in California's adult film industry.*

Since 1992, the law has required condom use in all adult films produced in California. According to Cal/OSHA, "*Condoms are required to protect adult film workers from exposure to HIV and other sexually transmitted infections.*" Prop. 60 closes loopholes in the existing law and improves enforcement so pornographers can more readily be held accountable for the same workplace protection law that applies to every other California industry. Prop. 60 only holds adult film producers, directors, and agents accountable—not adult film performers.

The American Medical Association, the American Public Health Association, and other major medical and public health institutions support the use of condoms in adult films. But pornographers blatantly ignore the law. They complain condom use in their films will hurt their profits. They fire and blacklist adult film performers who want to protect themselves with condoms.

When pornographers ignore the law, they expose their workers to HIV, syphilis, chlamydia, gonorrhea, herpes, hepatitis, and human papillomavirus (HPV). Scientific studies show adult film performers are far more likely to get sexually transmitted diseases than the general population. Thousands of cases of diseases—which can spread to the larger community—have been documented

within the adult film industry in recent years.

Pornographers say adult film performers are tested for disease. But testing (which the workers must pay for!) is inadequate. It does not effectively identify many sexually transmitted diseases in a timely manner. Condoms provide important additional protections. *Vote YES on Prop. 60 for worker safety!*

We all pay the price because pornographers refuse to play by the rules. The lifetime cost to treat HIV is nearly half a million dollars *per person*. This industry has cost California taxpayers an estimated \$10 million in HIV treatment expenses alone. In addition, taxpayers pay hundreds of thousands of dollars each year to treat related diseases.

The need to strengthen existing law is particularly urgent now because the adult film industry is struggling to make profits. As a result, pornographers are more likely than ever to resist condom use. Prop. 60 provides health officials with the enforcement tools they need to help ensure the law is enforced and adult film workers are adequately protected.

Pornographers have taken advantage of young working women and men for too long. Pornographers must not be allowed to continue to violate the law that protects these California workers. This is about fairness and responsibility. Visit FAIR4CA.org for more information. *VOTE YES ON PROP. 60!*

CYNTHIA DAVIS, M.P.H., Board Chair
AIDS Healthcare Foundation

GARY A. RICHWALD, M.D., M.P.H., Former Director
Los Angeles County Sexually Transmitted Disease Program

DERRICK BURTS, HIV-Positive Former Adult Film Worker

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 60 ★

Prop. 60 is dangerous for workers, and costly to voters like you. This initiative is the only one opposed by all major political parties.

One special interest group has spent millions of dollars drafting Prop. 60 and funding the campaign. Is it a surprise that this special interest group will also profit from the proposition? They will be given authority to file countless lawsuits against workers in adult films and can pocket special fines. Every on-set worker could be sued.

Prop. 60 also gives ANY resident of California the ability to sue adult film performers who produce adult films. Even an injured worker. Can you imagine the potential for abuse and harassment? And the cost. It's no wonder the nonpartisan Legislative Analyst's Office (LAO) estimates a potential cost to California taxpayers of "millions of dollars."

This is what happens when a special interest group spends millions of dollars on a complex thirteen-page initiative: a measure with so many flaws and problems that it negates any positive components. It even weakens current workplace safety.

OPPOSITION to Prop. 60 is growing, including public health and civil rights organizations, such as Equality California, APAC (the largest, independent performer organization) and LA LGBT Center. The CALIFORNIA DEMOCRATIC PARTY and CALIFORNIA REPUBLICAN PARTY oppose Prop. 60.

Prop. 60 is an "all-or-nothing" approach funded by a single special interest group. Worker safety policy should be written with everyone's input. *VOTE NO ON PROP. 60.*

To learn more, visit Californians Against Worker Harassment at DontHarassCA.com

RACHEL "CHANEL PRESTON" TAYLOR, President of the
Adult Performer Advocacy Committee

JERE INGRAM, CIH, CSP, FAIHA, former Chair of the
California Occupational Safety & Health Standards Board

MARIE LOUISE "NINA HARTLEY" LEVINE, Bachelor of Science
in Nursing

★ ARGUMENT AGAINST PROPOSITION 60 ★

VOTE NO ON PROP. 60: This is what happens when one special interest group has access to millions of dollars to fund a political campaign. This 13-page measure is so poorly drafted it is the only initiative this year OPPOSED by the CALIFORNIA DEMOCRATIC PARTY and the CALIFORNIA REPUBLICAN PARTY. Even the California Libertarian Party opposes Prop. 60.

The proponent wants you to believe it is about worker safety. However, Prop. 60 is OPPOSED by the ONLY independent *all adult film performer* organization in the state, with hundreds of dues paying members. In a letter to the California Secretary of State, the President of the Adult Performer Advocacy Committee, Chanel Preston stated the initiative is dangerous for the health and safety of performers.

Prop. 60 is also OPPOSED by many civil rights and public health organizations, including Equality California, the Transgender Law Center, AIDS Project Los Angeles, the Los Angeles LGBT Center and the San Francisco AIDS Foundation.

Prop. 60 is opposed by business leaders such as the Valley Industry & Commerce Association (VICA).

The proponent wants you to believe this is about worker safety. But this disguises the real impact of the measure: the creation of an unprecedented LAWSUIT BONANZA that will cost taxpayers “millions of dollars” and threatens the safety of performers.

The initiative creates a new *private right of action* authorizing the Proponent AND all 38 MILLION RESIDENTS OF CALIFORNIA to file lawsuits *directly* against those who produce or distribute adult content, which could include adult film performers, even injured performers, on-set crew, and cable and satellite television companies. No other worker in California can be sued this way. VOTE NO ON PROP. 60.

HERE ARE THE FACTS:

- According to California’s nonpartisan fiscal advisor Prop. 60 could cost taxpayers “MILLIONS OF DOLLARS” each year; money that could be spent on education, health care, libraries, police and fire services.
- The ultimate trial lawyer ballot measure, Prop. 60 gives EVERY Californian the right to sue those who produce or distribute adult content, which could include adult film performers, including LGBT performers, on-set workers, and cable and satellite television companies. The initiative’s presumption of liability could apply to every future California-produced adult film on cable television.
- Prop. 60 could force adult film performers to publicly *disclose private information*, including their legal names and HOME ADDRESSES.
- State employees will have to “review” adult films.
- The named proponent is authorized to be “sworn in” as an agent of the state; only the Legislature can VOTE him out of the position.
- Married couples who distribute films produced in their own homes could be sued.

Prop. 60 will cost taxpayers millions of dollars, could violate worker privacy, and even make the Proponent an agent of the state—indemnified by taxpayers like you. That’s why you should join performers, business leaders, the CALIFORNIA DEMOCRATIC PARTY and CALIFORNIA REPUBLICAN PARTY and VOTE NO ON PROP. 60.

MARK LENO, Senator
11th District

JAY GLADSTEIN, M.D.
Internal Medicine/Infectious Diseases

JESSICA YASUKOCHI, Vice President
Valley Industry & Commerce Association

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★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 60 ★

Make no mistake about who opposes Prop. 60. It’s the greedy porn producers. They routinely put adult film performers’ safety and health at risk by forcing them to perform without condoms. Recent studies found that one in four performers have been sick with serious sexually transmitted diseases. *Nobody should have to risk getting a serious disease to keep their job!*

The profits-before-safety lawbreaking in the adult film industry is well documented. California safety and health officials—Cal/OSHA—have issued HUNDREDS OF THOUSANDS OF DOLLARS in citations against nearly two dozen pornographers for violating rules that clearly require condoms in adult films.

But Cal/OSHA officials have frequently been blocked by loopholes and enforcement limitations. Prop. 60 will close the loopholes and strengthen Cal/OSHA’s ability to enforce existing law. *This is about fairness and responsibility!*

Prop. 60 is supported by NUMEROUS MEDICAL AND PUBLIC HEALTH ORGANIZATIONS, including:

- California State Association of Occupational Health Nurses
- California Academy of Preventive Medicine

- Southern California Coalition for Occupational Safety and Health
 - American College of Obstetricians and Gynecologists—District IX
 - American Sexual Health Association
 - Beyond AIDS
 - California Communities United Institute
- Pornographers have abused performers for far too long. Performers need and deserve the same workplace safety and health protections that construction workers, farmworkers, nurses, and millions of other California employees already enjoy.
VOTE YES ON PROP. 60!

JEFFREY KLAUSNER, M.D., M.P.H., Professor
UCLA School of Medicine

PAULA TAVROW, Ph.D., Director
UCLA Bixby Program on Population and Reproductive Health

AMANDA GULLESSERIAN, Founder
International Entertainment Adult Union (IEAU)

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~~pupils or more per school or the parents or legal guardian personally visit the school to apply for the waiver and that they there be provided a full description of the educational materials to be used in the different educational program choices and all the educational opportunities available to the child. Under such parental waiver conditions, children may be transferred to classes where they are taught English and other subjects through bilingual education techniques or other generally recognized educational methodologies permitted by law. Individual schools in which guardians of 20 pupils or more of a given grade level receive a waiver in any grade request a language acquisition program that is designed to provide language instruction shall be required to offer such a class; otherwise, they must allow the pupils to transfer to a public school in which such a class is offered: program to the extent possible, based upon the requirements of Section 305.~~

~~(b) If a school district implements a language acquisition program pursuant to this section, it shall do both of the following:~~

~~(1) Comply with the kindergarten and grades 1 to 3, inclusive, class size requirements specified in Section 42238.02.~~

~~(2) Provide, as part of the annual parent notice required pursuant to Section 48980 or upon enrollment, the parent or legal guardian of a minor pupil with information on the types of language programs available to pupils enrolled in the school district, including, but not limited to, a description of each program.~~

SEC. 6. Section 311 of the Education Code is repealed. ~~311. The circumstances in which a parental exception waiver may be granted under Section 310 are as follows:~~

~~(a) Children who already know English: the child already possesses good English language skills, as measured by standardized tests of English vocabulary comprehension, reading, and writing, in which the child scores at or above the state average for his or her grade level or at or above the 5th grade average, whichever is lower; or~~

~~(b) Older children: the child is age 10 years or older, and it is the informed belief of the school principal and educational staff that an alternate course of educational study would be better suited to the child's rapid acquisition of basic English language skills; or~~

~~(c) Children with special needs: the child already has been placed for a period of not less than thirty days during that school year in an English language classroom and it is subsequently the informed belief of the school principal and educational staff that the child has such special physical, emotional, psychological, or educational needs that an alternate course of educational study would be better suited to the child's overall educational development. A written description of these special needs must be provided and any such decision is to be made subject to the examination and approval of the local school superintendent, under guidelines established by and subject to the review of the local Board of Education and ultimately the State Board of Education. The existence of such special needs shall not compel issuance of a waiver, and the parents shall be fully informed of their right to refuse to agree to a waiver.~~

SEC. 7. Section 320 of the Education Code is amended to read:

320. As detailed in Article Section 5 of Article IX of the California Constitution, and Article 2 (commencing with

Section 305) and Article 3 (commencing with Section 310), *respectively*, all California school children have the right to be provided with an English language public education. If a California school child has been denied the option of an English language instructional curriculum in public school, the child's parent or legal guardian shall have legal standing to sue for enforcement of the provisions of this statute, and if successful shall be awarded normal and customary attorney's fees and actual damages, but not punitive or consequential damages. Any school board member or other elected official or public school teacher or administrator who willfully and repeatedly refuses to implement the terms of this statute by providing such a *free public education* and an English language educational option at an available public school to a California school child may be held personally liable for fees and actual damages by the child's parents or legal guardian. *public education.*

SEC. 8. Section 335 of the Education Code is amended to read:

335. The provisions of this act may be amended by a statute that becomes effective upon approval by the electorate or by a statute to further the act's purpose passed by a ~~two-thirds~~ majority vote of each house of the Legislature and signed by the Governor.

SEC. 9. Sections 2 to 8, inclusive, of this act shall become operative on July 1, 2017.

PROPOSITION 59

The following advisory question is submitted to the people in accordance with Section 4 of Senate Bill 254 of the 2015–16 Regular Session (Chapter 20, Statutes of 2016).

Advisory Question: "Shall California's elected officials use all of their constitutional authority, including, but not limited to, proposing and ratifying one or more amendments to the United States Constitution, to overturn *Citizens United v. Federal Election Commission* (2010) 558 U.S. 310, and other applicable judicial precedents, to allow the full regulation or limitation of campaign contributions and spending, to ensure that all citizens, regardless of wealth, may express their views to one another, and to make clear that corporations should not have the same constitutional rights as human beings?"

PROPOSITION 60

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure adds sections to the Labor Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

The California Safer Sex in the Adult Film Industry Act

The people of the State of California do hereby ordain as follows:

SECTION 1. Title.

This Act shall be known and may be cited as "The California Safer Sex in the Adult Film Industry Act" (the "Act").

SEC. 2. Findings and Declarations.

The people of the State of California hereby find and declare all of the following:

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(a) Widespread transmission of sexually transmitted infections associated with making adult films in California has been documented by one or more county departments of public health. All workers in the adult film industry deserve to go to work and not become ill. It is important that safer sex practices in the making of adult films, and in particular the use of condoms by performers, be required so as to limit the spread of HIV/AIDS and other sexually transmitted infections in the adult film industry. Not only is the risk of HIV/AIDS and other sexually transmitted infections among adult film performers of immediate public concern, but so is the risk of transmitting HIV/AIDS and other sexually transmitted infections between adult film performers and the broader population.

(b) The adult film industry places profits above worker safety and actively prevents and discourages the use of certain essential safer sex methods. Costs of vaccinations, testing, and medical monitoring relative to HIV/AIDS and other sexually transmitted infections are currently unfairly borne by adult film performers, while adult film producers avoid bearing these costs and responsibilities. This Act is necessary and appropriate to address these public concerns.

SEC. 3. Purposes and Intent.

The people of the State of California hereby declare the following purposes and intent in enacting this Act:

(a) To protect performers in the adult film industry and minimize the spread of sexually transmitted infections resulting from the making of adult films in California, thus reducing the negative impact on people's health and improving Californians' quality of life.

(b) To require producers of adult films to comply with the law by requiring, among other things, that performers are protected by condoms from sexually transmitted infections.

(c) To authorize and require the California Division of Occupational Safety and Health (Cal/OSHA) and the California Occupational Safety and Health Standards Board to take appropriate measures to enforce the Act.

(d) To require the costs of certain vaccinations, testing, and medical monitoring relative to HIV/AIDS and other sexually transmitted infections to be paid by adult film producers and to give adult film performers a private right of action to recover civil damages for economic or personal injury caused by adult film producers' failure to comply with the health and safety requirements of this Act.

(e) To hold liable all individuals and entities with a financial interest in the making or distribution of adult films who violate this Act.

(f) To require adult film producers to provide notice of filming, to maintain certain records regarding filming, to post a notice regarding the required use of condoms for specified scenes, and to fulfill additional health requirements.

(g) To discourage noncompliance and encourage compliance with the requirements of this Act by requiring adult film producers to be licensed.

(h) To extend the time in which the State of California may pursue violators of the Act.

(i) To enable whistleblowers and private citizens to pursue violators of the Act where the state fails to do so.

(j) To prohibit talent agents from knowingly referring adult film performers to locations where condoms will not be used in the making of adult films.

(k) To provide for the Act's proper legal defense should it be adopted and thereafter challenged in court.

SEC. 4. The California Safer Sex in the Adult Film Industry Act shall be codified by adding Sections 6720 to 6720.8, inclusive, to the Labor Code.

SEC. 4.1. Section 6720 is added to the Labor Code, to read:

6720. Health and Employment Requirements: Adult Film Industry.

(a) An adult film producer shall maintain engineering controls and work practice controls sufficient to protect adult film performers from exposure to blood and any other potentially infectious material-sexually transmitted infections ("OPIM-STI"). Engineering controls and work practice controls shall include:

(1) Provision of and required use of condoms during the filming of adult films.

(2) Provision of condom-safe water-based or silicone-based lubricants to facilitate the use of condoms.

(3) Any other reasonable STI prevention engineering controls and work practice controls as required by regulations adopted by the board through the administrative rulemaking process, so long as such engineering controls and work practice controls are reasonably germane to the purposes and intent of Sections 6720 to 6720.8, inclusive.

(b) The costs of all STI prevention vaccinations, all STI tests, and all medical follow-up required in order for an individual to be an adult film performer, shall be borne by the adult film producer and not by the adult film performer.

(c) Adult film producers shall maintain as strictly confidential, as required by law, any adult film performer's health information acquired by any means.

(d) An adult film producer's failure to offer, provide, and pay for a STI prevention vaccine, STI test, or medical examination, as required in order to be an adult film performer, if such vaccine, test, or examination is consented to by the adult film performer, shall result in a penalty against the adult film producer, payable to the State of California, equal to the cost of each STI prevention vaccine, each STI test, and each medical examination that the adult film producer failed to offer, provide, or pay for on behalf of the adult film performer.

(e) Any adult film performer may seek and be awarded, in addition to any other remedies or damages allowed by law, a civil damages award of up to fifty thousand dollars (\$50,000), subject to yearly consumer price index increases, if the trier of fact: (1) finds that the adult film performer has suffered economic or personal injury as a result of the adult film producer's failure to comply with subdivisions (a), (b), or (c); (2) makes an affirmative finding that the adult film producer's failure to comply was negligent, reckless, or intentional; and (3) finds that an award is appropriate. The court shall award costs and attorney's fees to a prevailing plaintiff in litigation filed pursuant to this subdivision or subdivision (f). Reasonable attorney's fees may be awarded to a prevailing defendant upon a finding by the court that the plaintiff's prosecution of the action was not in good faith. In the event that an adult film performer's damages for economic or personal injury are covered by the adult film producer's workers' compensation insurance, this subdivision shall not apply.

(f) Any adult film performer entitled to bring an action under subdivision (e) shall be entitled to bring such an

action on behalf of all similarly situated adult film performers, subject to class certification by a court.

(g) By January 1, 2018, the board shall adopt regulations to implement and effectuate the provisions and purposes of Sections 6720 to 6720.8, inclusive, in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(h) This section shall not be construed to require condoms, barriers, or other personal protective equipment to be visible in the final product of an adult film. However, there shall be a rebuttable presumption that any adult film without visible condoms that is distributed for commercial purposes in the State of California by any means was produced in violation of this section.

(i) Liability under Sections 6720 to 6720.8, inclusive, shall not apply to adult film performers, bona fide employees, individuals providing independent contracting services, or production volunteers of an adult film producer who are acting within the scope of the general services being provided and in accordance with the instruction of the adult film producer, provided that such individuals have no financial interest in the adult film and are not adult film producers. Such individuals shall not be considered agents of the adult film producer for purposes of Sections 6720 to 6720.8, inclusive.

(j) Nothing in Sections 6720 to 6720.8, inclusive, shall prevent a state agency, such as the division or board, from promulgating regulations governing the making, producing, financing, and distributing of adult films, so long as such regulations enhance workplace safety protections and rights for adult film performers and do not weaken the requirements of Sections 6720 to 6720.8, inclusive.

(k) In the event the amount of any monetary penalty set forth in Sections 6720 to 6720.8, inclusive, is found invalid by a court of law, the division is empowered to and shall develop, and the board is empowered to and shall adopt, monetary penalties via the administrative rulemaking process in a reasonable amount sufficient to deter noncompliance and encourage compliance with the requirements of the provisions in which the penalties are found to be invalid.

SEC. 4.2. Section 6720.1 is added to the Labor Code, to read:

6720.1. Notice & Disclosure.

(a) Within 10 days after the beginning of filming, an adult film producer must disclose to the division, in writing, signed under penalty of perjury by the adult film producer, the following information:

(1) The address or addresses at which the filming took, is taking, or will take place, with any changes in location to be disclosed to the division within 72 hours after such changes occur.

(2) The date or dates on which the filming took, is taking, or will take place, with any changes to the filming date or dates to be disclosed to the division within 72 hours after such changes occur.

(3) The name and contact information of the adult film producer.

(4) The name and contact information of the designated custodian of records as required by subdivision (h).

(5) The name and contact information of any talent agency that referred any adult film performer to the adult film producer.

(6) A certification signed by the adult film producer, under penalty of perjury, that:

(A) Condoms will be used or have been used at all times during the filming of acts of vaginal or anal intercourse;

(B) All STI testing, STI prevention vaccinations, and medical examinations, as required in order for an individual to be an adult film performer, have been offered to the individual prior to the beginning of filming at no charge to the individual; and

(C) The costs of all administered STI testing, STI prevention vaccination, and medical examinations have been paid by the adult film producer.

(7) Any other documentation or information that the division or board may require to assure compliance with the provisions of Sections 6720 to 6720.8, inclusive.

(b) Upon submitting the information required by this section, the adult film producer must pay a fee set by the division or board in an amount sufficient for data security, data storage, and other administrative expenses associated with receiving, processing, and maintaining all information submitted under this section. Until the division or board sets the fee, the fee shall be one hundred dollars (\$100). The fees collected pursuant to this subdivision shall not be used to cover the costs of enforcing Sections 6720 to 6720.8, inclusive.

(c) Where an adult film has two or more adult film producers, one of the adult film producers may transmit the information required to be disclosed by subdivision (a) on behalf of all of the adult film's adult film producers.

(d) An adult film producer's failure to timely disclose to the division the information required by this section, or to comply with the subdivision (f) training program requirement, the subdivision (g) signage requirement, or the subdivision (h) recordkeeping requirement, shall be punishable by a penalty of no less than one thousand dollars (\$1,000) and no more than seven thousand dollars (\$7,000) per violation, as determined via the administrative enforcement process or a civil action. Each repeat violation shall be punishable by a penalty of no less than seven thousand dollars (\$7,000) and no more than fifteen thousand dollars (\$15,000), as determined via the administrative enforcement process or a civil action. The failure to provide any individual piece of information required by subdivision (a) constitutes a separate violation.

(e) An adult film producer who knowingly makes any false statement, representation, or certification in complying with subdivision (a) shall be assessed a penalty of not more than seventy thousand dollars (\$70,000) as determined via the administrative enforcement process or a civil action.

(f) An adult film producer shall provide a training program to each adult film performer and employee as required by regulations adopted by the board in accordance with the administrative rulemaking process.

(g) A legible sign shall be displayed at all times at the location where an adult film is filmed in a conventional typeface not smaller than 48-point font, that provides the following notice so as to be clearly visible to all adult film performers in said adult films:

The State of California requires the use of condoms for all acts of vaginal or anal intercourse during the production of adult films to protect performers from sexually transmitted infections and diseases.

Any public health concerns regarding any activities occurring during the production of any adult films should be directed to:

The division or the board shall determine, and shall make available to the public and to all adult film producers, the language to be inserted directly above the blank line on the sign required by this subdivision, and all adult film producers shall comply with such determination by inserting such language directly above the blank line on the sign.

(h) An adult film producer shall designate a custodian of records for purposes of Sections 6720 to 6720.8, inclusive. For a period of not less than four years, the custodian of records shall maintain:

(1) A copy of each original and unedited adult film made, produced, financed, or directed by the adult film producer.

(2) A copy of the information required to be disclosed by subdivision (a).

(3) Proof that the adult film producer provided a training program to each adult film performer and employee pursuant to subdivision (f).

(4) Proof that a legible sign was displayed at the locations where the adult film was filmed pursuant to subdivision (f).

(i) By January 1, 2018, the division or board shall adopt regulations to implement and effectuate this section and Section 6720.2 in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 4.3. Section 6720.2 is added to the Labor Code, to read:

6720.2. *Adult Film Producers: License.*

(a) Within 10 days after the beginning of filming of an adult film, the adult film's adult film producer shall pay the required application fee, submit a required application to the division, and obtain a license. An adult film producer with a license that is in effect at the beginning of filming an adult film shall not be required to submit a new license application and fee. The application fee shall be set by the division via administrative rulemaking, in an amount sufficient to provide for the cost of the administration of this section. Until the division sets the fee, the fee shall be one hundred dollars (\$100). The fees collected pursuant to this subdivision shall not be used to cover the costs of enforcing Sections 6720 to 6720.8, inclusive.

(b) A license shall be effective immediately upon the division's receipt of the application and fee so long as the application and fee are transmitted to the division within 10 days after the beginning of filming. In addition, the license shall be effective retroactively by 10 days or shall be effective on the day of beginning of filming, whichever is earlier.

(c) Issuance of a license shall be a ministerial task to be performed by the division. Suspension of a license shall only be permitted upon a stipulation by an adult film producer or upon a proper showing before a presiding officer, to be selected by the division to conduct the hearing, that the licensee has been found, via the

administrative enforcement process or a civil action, to have violated subdivision (a) of Section 6720.

(d) For any adult film producer who is not an individual, no license shall be effective unless all owners and managing agents of such adult film producer obtain a license.

(e) A license shall be effective for two years, unless suspended by the division. Following the last day of the suspension period, the division shall inform the suspended licensee of license reinstatement.

(f) Licensing requirements:

(1) Each applicant and licensee must not have been found, through the administrative enforcement process or by a court, to have violated any of the requirements of subdivision (a) of Section 6720 for the 12 months preceding the filing of an application with the division or the duration of the adult film producer's suspension, whichever is less. All persons shall be considered in compliance with Sections 6720 to 6720.8, inclusive, as of the effective date of Sections 6720 to 6720.8, inclusive.

(g) Whenever the division determines that a licensee has failed to comply with the requirements of subdivision (a) of Section 6720, the division shall issue a written notice to the licensee. The notice shall include a statement of deficiencies found, shall set forth corrective measures, if any, necessary for the licensee to be in compliance with subdivision (a) of Section 6720, and shall inform the licensee that penalties or license suspension may result.

(h) A written request for administrative review, or for a continuance if good cause is shown, must be made by the noticed licensee within 15 calendar days of the issuance of the notice to comply, or else such review or continuance are waived.

(i) Within 10 days after the administrative review or waiver, excluding weekends and holidays, the division shall issue a written notice of decision to the licensee, specifying any penalties imposed on the licensee. For licenses that have been suspended, the notice of decision shall specify the acts or omissions found to be in violation of Sections 6720 to 6720.8, inclusive, and, in the case of a suspended license, shall state the length and extent of the suspension. The notice of decision shall also state the terms, if any, upon which the license may be reinstated or reissued.

(j) A license issued pursuant to Sections 6720 to 6720.8, inclusive, may be reinstated if the division determines that the conditions which prompted the suspension no longer exist and any penalties imposed pursuant to Sections 6720 to 6720.8, inclusive, have been satisfied. In no event shall this section be construed as limiting a licensee's right to seek mandamus or to appeal an adverse license decision.

(k) Performing the functions of an adult film producer without a license shall result in a fine of up to fifty dollars (\$50) per day for any adult film producer who has previously been found to have violated subdivision (a) of Section 6720. Any adult film producer who fails to register as an adult film producer within 10 days after qualifying as an adult film producer shall be liable for a fine of up to twenty-five dollars (\$25) per day for performing the functions of an adult film producer without a license.

SEC. 4.4. Section 6720.3 is added to the Labor Code, to read:

6720.3. *Statute of Limitations.*

(a) Notwithstanding Section 6317, in an action to prosecute any alleged violators of Sections 6720 to 6720.8, inclusive, or any adult film regulations now or hereafter adopted, the time for commencement of action shall be the later of the following:

- (1) One year after the date of the violation.
- (2) One year after the violation is discovered, or through the use of reasonable diligence, should have been discovered.

SEC. 4.5. Section 6720.4 is added to the Labor Code, to read:

6720.4. *Liability and Penalties.*

(a) Notwithstanding any contrary provisions in Sections 6423 to 6436, inclusive, every adult film producer, or any person in an agency relationship with an adult film producer, who does any of the following shall, in an administrative or civil action, be assessed a penalty as defined in subdivision (b):

- (1) Negligently violates any provision of subdivision (a), (b), or (c) of Section 6720;
- (2) Knowingly or repeatedly violates any provision of subdivision (a), (b), or (c) of Section 6720;
- (3) Fails or refuses to comply with, after notification and expiration of any abatement period, any provision of subdivision (a), (b), or (c) of Section 6720; or
- (4) Aids and abets another to commit any of the acts in paragraph (1), (2), or (3) of subdivision (a).

(b) Any violation of paragraph (1) of subdivision (a) is punishable by a penalty of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000); any violation of paragraph (2) or (3) of subdivision (a) is punishable by a penalty of not less than five thousand dollars (\$5,000) nor more than seventy thousand dollars (\$70,000); and any violation of paragraph (4) of subdivision (a) is punishable by a penalty of not less than one thousand dollars (\$1,000) nor more than thirty-five thousand dollars (\$35,000).

(c) Notwithstanding any contrary provisions in Sections 6423 to 6436, inclusive, any adult film producer who willfully violates subdivision (a) of Section 6720, the violation of which causes death, or permanent or prolonged bodily impairment, to the adult film performer, is punishable by a fine of not more than one hundred thousand dollars (\$100,000) via the administrative enforcement process or a civil action. If the adult film producer is a limited liability company or a corporation, the fine may not exceed one million five hundred thousand dollars (\$1,500,000).

SEC. 4.6. Section 6720.5 is added to the Labor Code, to read:

6720.5. *Agents of Control; Aiding and Abetting; Multiple Violations.*

(a) Every person who possesses, through purchase for commercial consideration, any rights in one or more adult films filmed in California in violation of subdivision (a) of Section 6720 and who knowingly or recklessly sends or causes to be sent, or brings or causes to be brought, into or within California, for sale or distribution, one or more adult films filmed in California in violation of subdivision (a) of Section 6720, with intent to distribute, or who offers to distribute, or does distribute, such films for commercial purposes, shall be assessed a penalty of the greater of:

(1) Not less than one-half times, but not more than one-and-one-half times, the total amount of commercial consideration exchanged for any rights in the adult films.

(2) Not less than one-half times, but not more than one-and-one-half times, the total cost of producing the adult films.

(b) Any person found to have aided and abetted any other person or persons in violating subdivision (a) shall be found liable for violating subdivision (a).

(c) Any person found liable for violating subdivision (a) who has previously been found liable for violating subdivision (a) shall be assessed a penalty of the greater of:

(1) Not less than two times, but not more than three times, the amount of commercial consideration exchanged for any rights in the adult film.

(2) Not less than two times, but not more than three times, the total cost of producing the adult film.

(d) Any person found liable for violating subdivision (a) who has been found liable two or more times for violating subdivision (a) shall be assessed a penalty of the greater of:

(1) Not less than three times, but not more than four times, the amount of commercial consideration exchanged for any rights in the adult film.

(2) Not less than three times, but not more than four times, the total cost of producing the adult film.

(e) Sections 6720 to 6720.8, inclusive, shall not apply to legitimate medical, educational, and scientific activities, to telecommunication companies that transmit or carry adult films, to criminal law enforcement and prosecuting agencies in the investigation and prosecution of criminal offenses, and to any film rated by the Motion Picture Association of America unless such film is an adult film.

SEC. 4.7. Section 6720.6 is added to the Labor Code, to read:

6720.6. *Enforcement; Whistleblowers; Private Rights of Action.*

(a) Any person who violates any provision of Sections 6720 to 6720.8, inclusive, shall be liable via the administrative enforcement process, or via a civil action brought by the division or its designee, a civil prosecutor, an adult film performer aggrieved by a violation of Section 6720, or an individual residing in the State of California. Any adult film performer or individual, before filing a civil action pursuant to this subdivision, must file with the division a written request for the division to pursue the alleged violator or violators via the administrative enforcement process or via commencement of a civil action. The request shall include a statement of the grounds for believing that Sections 6720 to 6720.8, inclusive, have been violated. The division shall respond to the individual in writing, indicating whether it intends to pursue an administrative or civil action, or take no action. If the division, within 21 days of receiving the request, responds that it is going to pursue the alleged violator or violators via the administrative enforcement process or a civil action, and initiates enforcement proceedings or files a civil action within 45 days of receiving the request, no other action may be brought unless the division's action is abandoned or dismissed without prejudice. If the division, within 21 days of receiving the request, responds in the

negative, or fails to respond, the person requesting the action may file a civil action.

(b) The time period within which a civil action shall be commenced shall be tolled from the date of the division's receipt of the request to either the date the civil action is dismissed without prejudice or the administrative enforcement action is abandoned, whichever is later, but only for a civil action brought by the individual who filed the request.

(c) No civil action may be filed under this section with regard to any person for any violations of Sections 6720 to 6720.8, inclusive, after the division has issued an order consistent with Sections 6720 to 6720.8, inclusive, or collected a penalty against that person for the same violation. Although Sections 6720 to 6720.8, inclusive, impose no criminal liability, no civil action alleging a violation of Sections 6720 to 6720.8, inclusive, may be filed against a person pursuant to this section if a criminal prosecutor is maintaining a criminal action against that person regarding the same transaction or occurrence. Not more than one judgment on the merits with respect to any particular violation of Sections 6720 to 6720.8, inclusive, may be obtained under this section against any person. The court may dismiss a pending action, without prejudice to any other action, for failure of the plaintiff to proceed diligently or in good faith.

(d) If judgment is entered against one or more defendants in an action brought under this section, penalties recovered by the plaintiff shall be distributed as follows: 75 percent to the State of California and 25 percent to the plaintiff. The court shall award to a plaintiff or defendant other than a governmental agency who prevails in any action authorized by Sections 6720 to 6720.8, inclusive, and brought pursuant to this section the costs of litigation, including reasonable attorney's fees. However, in order for a defendant to recover attorney's fees from a plaintiff, the court must first find that the plaintiff's pursuit of the litigation was frivolous or in bad faith.

SEC. 4.8. Section 6720.7 is added to the Labor Code, to read:

6720.7. Talent Agency Liability.

(a) It shall be unlawful for any talent agency, as that term is defined in subdivision (a) of Section 1700.4, to knowingly refer, for monetary consideration, any adult film performer to any producer, or agent of the producer, including, but not limited to, casting directors, of adult films who are not in compliance with subdivision (a) of Section 6720. Any talent agency found liable for violating this subdivision shall be liable to the adult film performer for the amount of the monetary consideration received by the talent agency as a result of the referral made in violation of this section and for reasonable attorney's fees associated with successfully pursuing the talent agency for liability for violating this subdivision.

(b) Any talent agency that obtains written confirmation prior to the beginning of filming, signed under penalty of perjury by the adult film producer, that the adult film producer is in compliance with, and will continue to comply with, all requirements of subdivision (a) of Section 6720 shall not be liable for violating this section.

(c) Violation of this section may be grounds for suspension or revocation of the violator's talent agency license. The Division of Occupational Safety and Health and the Division of Labor Standards Enforcement shall maintain

concurrent jurisdiction over the enforcement of this section.

(d) Upon the finding of liability for violations of subdivision (a) of Section 6720, the division shall transmit the information in paragraph (5) of subdivision (a) of Section 6720.1 to the Department of Industrial Relations, Division of Labor Standards Enforcement, or any successor agency.

SEC. 4.9. Section 6720.8 is added to the Labor Code, to read:

6720.8. Definitions.

For purposes of Sections 6720 to 6720.8, inclusive, the following definitions shall apply:

(a) "Adult film" means any recorded, streamed, or real-time broadcast of any film, video, multimedia, or other representation of sexual intercourse in which performers actually engage in vaginal or anal penetration by a penis.

(b) "Adult film performer" means any individual whose penis penetrates a vagina or anus while being filmed, or whose vagina or anus is penetrated by a penis while being filmed.

(c) "Adult film producer" means any person that makes, produces, finances, or directs one or more adult films filmed in California and that sells, offers to sell, or causes to be sold such adult film in exchange for commercial consideration.

(d) "Adult film regulations" means all regulations adopted by the board in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) that are reasonably germane to the purposes and intent of Sections 6720 to 6720.8, inclusive.

(e) "Aided and abetted" or "aids and abets" means knowingly or recklessly giving substantial assistance to a person.

(f) "Beginning of filming" means the point at which an adult film begins to be recorded, streamed, or real-time broadcast.

(g) "Board" means the Occupational Safety and Health Standards Board.

(h) "Commercial consideration" means anything of value, including but not limited to, real or digital currency, or contingent or vested rights in any current or future revenue.

(i) "Commercial purposes" means to sell, offer to sell, or cause to be sold, in exchange for commercial consideration.

(j) "Distribute" or "distributed" means to transfer possession of in exchange for commercial consideration.

(k) "Division" means the Division of Occupational Safety and Health.

(l) "Filmed" and "filming" means the recording, streaming, or real-time broadcast of any adult film.

(m) "License" means Adult Film Producer Health License.

(n) "Licensee" means any person holding a valid Adult Film Producer Health License.

(o) "Other potentially infectious material-sexually transmitted infections" or "OPIM-STI" means bodily fluids and other substances that may contain and transmit sexually transmitted pathogens.

(p) “Person” means any individual, partnership, firm, association, corporation, limited liability company, or other legal entity.

(q) “Sexually Transmitted Infection” or “STI” means any infection or disease spread by sexual intercourse, including, but not limited to, HIV/AIDS, gonorrhea, syphilis, chlamydia, hepatitis, trichomoniasis, genital human papillomavirus infection (HPV), and genital herpes.

SEC. 5. Liberal Construction.

This Act is an exercise of the public power of the people of the State of California for the protection of their health, safety, and welfare, and shall be liberally construed to effectuate its purposes.

SEC. 6. Conflicting Measures.

This Act is intended to be comprehensive. It is the intent of the people of the State of California that in the event this Act and one or more measures relating to the same subject shall appear on the same statewide ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this Act. In the event that this Act receives a greater number of affirmative votes, the provisions of this Act shall prevail in their entirety, and all provisions of the other measure or measures shall be null and void.

SEC. 7. Proponent Accountability.

The people of the State of California hereby declare that the proponent of this Act should be held civilly liable in the event this Act is struck down, after passage, in whole or in part, by a court for being constitutionally or statutorily impermissible. Such a constitutionally or statutorily impermissible initiative is a misuse of taxpayer funds and electoral resources and the Act’s proponent, as the drafter of the Act, must be held accountable for such an occurrence.

In the event this Act, after passage, is struck down in court, in whole or in part, as unconstitutional or statutorily invalid, and all avenues for appealing and overturning the court decision have been exhausted, the proponent shall pay a civil penalty of \$10,000 to the General Fund of the State of California for failure to draft a wholly constitutionally or statutorily permissible initiative law. No party or entity may waive this civil penalty.

SEC. 8. Amendment and Repeal.

This Act may be amended to further its purposes by statute passed by a two-thirds (2/3) vote of the Legislature and signed by the Governor.

SEC. 9. Severability.

If any provision of this Act, or part thereof, or the applicability of any provision or part to any person or circumstances, is for any reason held to be invalid or unconstitutional, the remaining provisions and parts shall not be affected, but shall remain in full force and effect, and to this end the provisions and parts of this Act are severable. The voters hereby declare that this Act, and each portion and part, would have been adopted irrespective of whether any one or more provisions or parts are found to be invalid or unconstitutional.

SEC. 10. Legal Defense.

The people of the State of California desire that the Act, if approved by the voters, and thereafter challenged in court, be defended by the State of California. The people of the State of California, by enacting this Act, hereby declare that the proponent of this Act has a direct and personal

stake in defending this Act from constitutional or statutory challenges to the Act’s validity. In the event the Attorney General fails to defend this Act; or the Attorney General fails to appeal an adverse judgment against the constitutionality or statutory permissibility of this Act, in whole or in part, in any court, the Act’s proponent shall be entitled to assert his direct and personal stake by defending the Act’s validity in any court and shall be empowered by the citizens through this Act to act as an agent of the citizens of the State of California subject to the following conditions: (1) the proponent shall not be considered an “at-will” employee of the State of California, but the Legislature shall have the authority to remove the proponent from his agency role by a majority vote of each house of the Legislature when “good cause” exists to do so, as that term is defined by California case law; (2) the proponent shall take the Oath of Office under Section 3 of Article XX of the California Constitution, as an employee of the State of California; (3) the proponent shall be subject to all fiduciary, ethical, and legal duties prescribed by law; and (4) the proponent shall be indemnified by the State of California for only reasonable expenses and other losses incurred by the proponent, as agent, in defending the validity of the challenged Act. The rate of indemnification shall be no more than the amount it would cost the State to perform the defense itself.

SEC. 11. Effective Date.

Except as otherwise provided herein, this Act shall become effective the day after its approval by the voters.

PROPOSITION 61

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure adds a section to the Welfare and Institutions Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

The California Drug Price Relief Act

The people of the State of California do hereby ordain as follows:

SECTION 1. Title.

This Act shall be known, and may be cited, as “The California Drug Price Relief Act” (the “Act”).

SEC. 2. Findings and Declarations.

The people of the State of California hereby find and declare all of the following:

(a) Prescription drug costs have been, and continue to be, one of the greatest drivers of rising health care costs in California.

(b) Nationally, prescription drug spending increased more than 800 percent between 1990 and 2013, making it one of the fastest growing segments of health care.

(c) Spending on specialty medications, such as those used to treat HIV/AIDS, Hepatitis C, and cancer, are rising faster than other types of medications. In 2014 alone, total spending on specialty medications increased by more than 23 percent.

(d) The pharmaceutical industry’s practice of charging inflated drug prices has resulted in pharmaceutical

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