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Alcohol Beverage Surtax. Sex Crimes Penalties. Victim Assistance. Initiative Statute.

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SA2005RF0087

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RECEIVED
JUN 16 2005

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Evans Child Protection Act.

**RE: A Request to the California Attorney General for the Official
Title on a 25 Cents Beer Tax for Law Enforcement and Sex Crime Victims.**

Sir

I am requesting the Official Title and Summary for the Evans Child Protection Act. I am very concerned about the fact that over 1,000 kids are victims of Sex Crimes everyday and 12,000 adult rapes happen in California every year.

We must provide Law Enforcement with the Financial Resources needed to protect our Children. This measure will ensure that California has the financial means to protect our Kids. Some would say that 25 Cents is Too Much, I say 1,000 victims a day is too much!

The General Public is welcome to view the measure at: [Http://www.evans2006.org](http://www.evans2006.org).

Thank You,

Mervin Evans

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INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

Alcoholic Beverages Surtax. Sex Crime Enforcement and Victim Assistance. Initiative Statute.

Imposes surtax on alcoholic beverages of 25 cents per container or per serving. Directs surtax to be deposited into a trust fund administered by the Attorney General for financial support for sex crimes victims, for law enforcement training, and for grants for local law enforcement, prosecutors, and child social services. Increases penalties for specified sex crimes to 50 years without parole where the victim is a minor and to 25 years without parole where the victim is a woman. Requires individualized determination of bail for such crimes. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: Measure would result in increased special fund revenues from the new alcoholic beverage tax ranging from \$1 billion to \$2 billion annually, and comparatively modest other state and local revenue effects; increased state General Fund prison costs, eventually reaching \$800 million annually in 2048-49 for state operations and totaling \$1.9 billion for capital outlay; and increased tax administration costs potentially ranging up to several million dollars annually.

TO THE HONORABLE SECRETARY OF STATE OF CALIFORNIA

We, the undersigned, registered, qualified voters of California, residents of _____ County (or City and County), hereby propose amendments to the Penal Code, relating to sex crimes, and petition the Secretary of State to submit the same to the voters of California for their adoption or rejection at the next succeeding general election or at any special statewide election held prior to that general election or otherwise provided by law. The proposed statutory amendments (full title and text of the measure) read as follows:

SECTION 1. Title 14 (commencing with Section 14400) is added to Part 4 of the Penal Code, to read: TITLE 14.

THE CALIFORNIA EVANS CHILD PROTECTION ACT

14400. (a) The State Treasurer shall create the Sex Crime Victims Trust Fund, which shall be administered by the Attorney General.

(b) In addition to any other tax imposed, a surtax of twenty-five cents (\$.25) on each can, container, or bottle, shall be imposed for the retail sale of the following:

- (1) Beer. (2) Malted beverages (3) Wine. (4) Hard liquor.

(c) In addition to any other tax imposed, a surtax of twenty-five cents (\$.25) for each serving at any sporting event, county fair, hotel, bar, tavern, nightclub, casino, winery, or restaurant in the state shall be imposed for the sale of the following:

- (1) Beer. (2) Malted beverages (3) Wine (4) Hard liquor.

14401. (a) The surtax imposed and required to be paid by Section 14400 shall be made in remittances to the State Board of Equalization and shall be deposited in the Sex Crime Victims Trust Fund. The surtax imposed by this title shall be collected at the same time and in accordance with the procedures applicable to the collection of the sales tax under Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.

(b) Notwithstanding Section 13340 of the Government Code, money in the Sex Crime Victim Trust Fund is continuously appropriated for the purposes of this title.

(c) The Attorney General shall use the money in the Sex Crime Victim Trust Fund in a manner that he or she deems fit to protect and serve the needs of children and adult victims of sex crimes, including, but not limited to, the following:

(1) Financial support for victims of sex offenses.

(2) Law enforcement training.

(3) Support staff in the Department of Justice to implement the purposes of this title.

(4) Staff support and block grants for local law enforcement, city attorneys, district attorneys, and county child social service workers.

14402. The Attorney General shall make an annual written report to the Legislature providing an accounting of the Sex Crime Victims Trust Fund that includes the total amount of money received from the fees imposed by subdivisions (b) and (c) of Section 14400, and an accounting of the expenditures of those funds, including a list and description of the programs and grants that received funds pursuant to this title. Section 289.4 is added to the Penal SEC. 2. Code, to read: 289.4.

(a) Any person who commits a violation of any offense described in subdivision (d) against a minor shall be imprisoned in the state prison for a term of 50 years without the possibility of parole.

(b) A person who commits a violation of any offense described in subdivision (d) against an adult female shall be imprisoned in the state prison for a term of 25 years without the possibility of parole.

(c) Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 may not apply to reduce the term of imprisonment imposed pursuant to this section, and a person sentenced pursuant to this section may not be released on parole prior to serving the term of confinement prescribed by this section.

(d) Punishment pursuant to this section shall apply to the following crimes where the victim is a person described in subdivision (a) or (b):

(1) Possession or distribution of child pornography as defined in Section 311.2.

(2) A violation of Section 261, 286, 288, 288.5, 288a, or 289 if the victim is a minor under the age of 16 years.

(3) A violation of Section 261, 262, 286, 288a, or 289 and one or more of the following circumstances are charged and found to be true:

(A) The offense was accomplished against the victim's will by means of force, violence, forcible compulsion, or duress.

(B) Serious bodily injury was inflicted upon the victim during the commission of the offense.

(C) A deadly weapon was used in the commission of the offense.

(D) The victim is incapable, because of a mental disorder or development or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act.

(4) As used in this section:

(A) "Forcible compulsion" means to overcome the amount of earnest resistance that might be expected under the circumstances, or threat or intimidation, express or implied, that places a person in fear of immediate death or bodily injury to himself or herself or another person or in fear that he or she or another person will be kidnapped, or fear by a child under the age of 16 years caused by intimidation, expressed or implied, by another person at least two years older than the victim. "Resistance" means either physical resistance or any clear communication of the victim's lack of consent.

(B) "Serious bodily injury" means injury that creates a substantial risk of death, causes serious or prolonged disfigurement, prolonged impairment of health, or prolonged impairment or loss of the function of any body organ.

SEC. 3. Section 1270.05 is added to the Penal Code, to read:

1270.05. A defendant arrested for an offense specified in paragraph (3) of subdivision (d) of Section 289.4 may not be released upon bail unless he or she is brought before a judge or magistrate having jurisdiction of the offense and the judge or magistrate makes an individualized determination of bail.

Sponsor of Measure

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