Beverly Hills City Council Liaison / Legislative/Lobby Committee will conduct a Special Meeting, at the following time and place, and will address the agenda listed below:

CITY OF BEVERLY HILLS
455 N. Rexford Drive
2nd Floor Room 280A
Beverly Hills, CA 90210

IN-PERSON / TELEPHONIC / VIDEO CONFERENCE MEETING

Beverly Hills Liaison Meeting
https://beverlyhills-org.zoom.us/my/bhliaison
Meeting ID: 312 522 4461
Passcode: 90210

You can also dial in by phone:
+1 669 900 9128 US
+1 888 788 0099

One tap mobile
+16699009128,,3125224461#,,,,*90210# US
+18887880099,,3125224461#,,,,*90210# Toll-Free

Tuesday, August 16, 2022
12:00 PM (Noon)

*In the interest of maintaining appropriate social distancing, members of the public can view this meeting through live webcast at www.beverlyhills org/live and on BH Channel 10 or Channel 35 on Spectrum Cable, and can participate in the teleconference/video conference by using the link above. Written comments may be emailed to mayorandcitycouncil@beverlyhills.org and will also be taken during the meeting when the topic is being reviewed by the Beverly Hills City Council Liaison / Legislative/Lobby Committee. Beverly Hills Liaison meetings will be in-person at City Hall.

A summary list of each bill in Section B of the Agenda below may be found here. This list contains links to the full, legislative text for each bill.

AGENDA

A. Oral Communications

1. Public Comment

Members of the public will be given the opportunity to directly address the Committee on any item listed on the agenda.

2. Resolution of the Beverly Hills City Council Liaison / Legislative/Lobby Committee continuing to authorize public meetings to be held via teleconferencing pursuant to Government Code Section 54953(e) and making findings and determination regarding the same.
Recent legislation was adopted allowing the Beverly Hills City Council Liaison / Legislative/Lobby Committee to continue virtual meetings during the COVID-19 declared emergency subject to certain conditions and the proposed resolution implements the necessary requirements.

B. Direction

1. H.R.1781 - PROTECT Kids Act
Comment: This item requests the City Council Legislative/Lobby Committee consider a position on H.R. 1781. This bill addresses the collection of personal information from children while online. The bill seeks to protect children from being taken advantage of or abused online by raising the standards of protection mandated by law for the collection of information by widening the definition of protected personal information, raising the age for parental consent protections to under 16, and extends all protections for children to mobile applications as well.

2. H.R. 8404: Respect for Marriage Act
Comment: This item requests the City Council Legislative/Lobby Committee consider a position on H.R. 8404. This bill provides statutory authority for same-sex and interracial marriages. It repeals and replaces provision that define, for purposes of federal law, marriage as between a man and a woman and spouse as a person of the opposite sex with provisions that recognized any marriage that is valid under state law.

3. Proposition 27 - the Corporate Online Gambling Proposition
Comment: This item requests the City Council Legislative/Lobby Committee consider a position on Proposition 27. This proposition would legalize online and mobile sports wagering, which currently is prohibited, for persons 21 years and older. Such wagering may be offered only by federally recognized Indian tribes and eligible businesses that contract with them.

4. Request by Councilmember Nazarian for the City Council Legislative / Lobby Liaisons Committee to Consider a Position on Senate Bill 930 (Wiener) – Alcoholic Beverages: Hours of Sale
Comment: This item is a request by Councilmember Nazarian. This bill, beginning January 1, 2025, until January 2, 2030, requires the Department of Alcoholic Beverage Control (ABC) to conduct a pilot program that issues an additional-hours license to an on-sale licensee located in qualified cities (cities of Cathedral City, Coachella, Fresno, Oakland, Palm Springs and West Hollywood and the City and County of San Francisco), authorizing the licensee to serve alcoholic beverages between 2 a.m. and 4 a.m.

5. Update on Assembly Bill 1551 (Santiago) - Planning and Zoning: Development Bonuses: Mixed-Use.

Comment: The City’s state lobbyist is returning to the City Council Legislative / Lobby Liaison Committee (“Committee”) to provide an update on AB 1551 and to provide answers to the Committee on questions that were asked. Once the discussion concludes, the Committee may recommend an official City position on this bill.
6. **Assembly Bill 2147 (Ting) – Pedestrians**  
Comment: The City Council Legislative / Lobby Liaison Committee ("Committee") had requested staff return to them in order to propose a new definition of jay walking. This item will present an update on this request.

7. **Assembly Bill 1909 (Friedman) - Vehicles: Bicycle Omnibus Bill**  
Comment: The City Council Legislative / Lobby Liaison Committee ("Committee") had previously recommended a position on oppose on this legislation as it was understood the City would not be able to prohibit electric bicycles on equestrian trails, hiking trails, recreational trails, bicycle paths, or bikeway.

   The bill actually eliminates the statewide ban of class 3 electric bicycles on a bicycle path or trail, bikeway, bicycle lane, equestrian trail, or hiking or recreational trail. The bill allows cities to adopt an ordinance prohibiting electric bicycles on the various pathways and trails mentioned above. The bill eliminate the ability of cities to require bicycle registration.

8. **Legislative Updates**  
Comment: The City's lobbyists will provide a verbal update to the Liaisons on various legislative issues.

9. **Future Agenda Items Discussion**  
Comment: The Legislative / Lobby Committee Liaisons may request topics for discussion be added to the next agenda.

C. **Adjournment**

Huma Ahmed  
City Clerk

Posted: August 12, 2022

**A DETAILED LIAISON AGENDA PACKET IS AVAILABLE FOR REVIEW AT**
WWW.BEVERLYHILLS.ORG

Pursuant to the Americans with Disabilities Act, the City of Beverly Hills will make reasonable efforts to accommodate persons with disabilities. If you require special assistance, please call (310) 285-1014 (voice) or (310) 285-6881 (TTY). Providing at least twenty-four (24) hours advance notice will help to ensure availability of services.
Item A-2
STAFF REPORT

Meeting Date: August 16, 2022
To: City Council Liaison / Legislative/Lobby Committee
From: Cindy Owens, Committee Secretary
Subject: A RESOLUTION OF THE CITY COUNCIL LIAISON / LEGISLATIVE/LOBBY COMMITTEE OF THE CITY OF BEVERLY HILLS CONTINUING TO AUTHORIZE PUBLIC MEETINGS TO BE HELD VIA TELECONFERENCING PURSUANT TO GOVERNMENT CODE SECTION 54953(e) AND MAKING FINDINGS AND DETERMINATIONS REGARDING THE SAME

Attachments: 1. Proposed resolution

RECOMMENDATION

Staff and the City Attorney’s office recommend that the City Council Liaison / Legislative/Lobby Committee adopt a resolution making the following findings so that meetings of the City Council Liaison / Legislative/Lobby Committee will be subject to the special Brown Act requirements for teleconference meetings: (1) the City Council Liaison / Legislative/Lobby Committee has reconsidered the circumstances of the COVID-19 state of emergency; (2) the state of emergency continues to directly impact the ability of the members to meet safely in person; and (3) state or local officials continue to impose or recommend measures to promote social distancing. Though the City Council Liaison / Legislative/Lobby Committee adopted such a resolution in the past, these findings must be continuously made to continue to hold meetings under these special teleconferencing requirements.

FISCAL IMPACT

The proposed resolution allowing the City Council Liaison / Legislative/Lobby Committee greater flexibility to conduct teleconference meetings is unlikely to cause a greater fiscal impact to the City as the City Council Liaison / Legislative/Lobby Committee has been conducting such teleconference meetings for over a year.
INTRODUCTION

AB 361 allows the City Council Liaison / Legislative/Lobby Committee to continue virtual meetings during the COVID-19 declared emergency subject to certain conditions. These special requirements give the City greater flexibility to conduct teleconference meetings when there is a declared state of emergency and either social distancing is mandated or recommended, or an in-person meeting would present imminent risks to the health and safety of attendees.

BACKGROUND

On September 16, 2021, the Governor signed AB 361, amending the Brown Act to establish special requirements for teleconference meetings if a Legislative/Lobby body of a local public agency holds a meeting during a proclaimed state of emergency and either state or local officials have imposed or recommended measures to promote social distancing, or the body determines, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

AB 361 authorizes local agencies to continue meeting remotely without following the Brown Act’s standard teleconferencing provisions if the meeting is held during a state of emergency proclaimed by the Governor and either of the following applies: (1) state or local officials have imposed or recommended measures to promote social distancing; or (2) the agency has already determined or is determining whether, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

DISCUSSION

To continue to hold meetings under these special teleconferencing requirements, the City Council Liaison / Legislative/Lobby Committee needs to make two findings pursuant to Government Code Section 54953(e)(3). First, there must be a declared state of emergency and the City Council Liaison / Legislative/Lobby Committee must find that it has reconsidered the circumstances of such emergency. Second, the City Council Liaison / Legislative/Lobby Committee must find that such emergency continues to directly impact the ability of the City Council Liaison / Legislative/Lobby Committee’s members to meet in person. Alternatively, for the second finding, the City Council Liaison / Legislative/Lobby Committee must find that state or local officials continue to impose or recommend social distancing measures. These findings must be continuously made to continue to hold meetings under these special teleconferencing requirements.

The declared emergency is still in effect. Furthermore, the State of California and the County of Los Angeles have recommended measures to promote social distancing. The Centers for Disease Control and Prevention continue to advise that COVID-19 spreads more easily indoors than outdoors and that people are more likely to be exposed to COVID-19 when they are closer than 6 feet apart from others for longer periods of time. Additionally, the Los Angeles County Department of Public Health still encourages people at risk for severe illness of death from COVID-19 to take protective measures such as social distancing and, for those not yet fully vaccinated, to physically distance from others whose vaccination status is unknown. The County Health Department also continues to
recommend that employers take steps to support physical distancing and the City Council continues to recommend steps to reduce crowding indoors and to support physical distancing at City meetings to protect the health and safety of meeting attendees.

Please note that AB 361 applies to all Legislative/Lobby bodies. Therefore, Commissions and standing committees will need to also comply with the requirements of AB 361.

Cindy Owens
Secretary of the
City Council Liaison / Legislative/Lobby Committee

Approved By
RESOLUTION NO. CCL-LLC-03

RESOLUTION OF THE CITY COUNCIL LIAISON / LEGISLATIVE/LOBBY COMMITTEE OF THE CITY OF BEVERLY HILLS CONTINUING TO AUTHORIZE PUBLIC MEETINGS TO BE HELD VIA TELECONFERENCING PURSUANT TO GOVERNMENT CODE SECTION 54953(e) AND MAKING FINDINGS AND DETERMINATIONS REGARDING THE SAME

WHEREAS, the City Council Liaison / Legislative/Lobby Committee is committed to public access and participation in its meetings while balancing the need to conduct public meetings in a manner that reduces the likelihood of exposure to COVID-19 and to support physical distancing during the COVID-19 pandemic; and

WHEREAS, all meetings of the City Council Liaison / Legislative/Lobby Committee are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code Sections 54950 – 54963), so that any member of the public may attend, participate, and watch the City Council Liaison / Legislative/Lobby Committee conduct its business; and

WHEREAS, pursuant to Assembly Bill 361, signed by Governor Newsom and effective on September 16, 2021, legislative bodies of local agencies may hold public meetings via teleconferencing pursuant to Government Code Section 54953(e), without complying with the requirements of Government Code Section 54953(b)(3), if the legislative body complies with certain enumerated requirements in any of the following circumstances:

1. The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

2. The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the
emergency, meeting in person would present imminent risks to the health or safety of attendees.

3. The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

WHEREAS, on March 4, 2020, Governor Newsom declared a State of Emergency in response to the COVID-19 pandemic (the “Emergency”); and

WHEREAS, the Centers for Disease Control and Prevention continue to advise that COVID-19 spreads more easily indoors than outdoors and that people are more likely to be exposed to COVID-19 when they are closer than 6 feet apart from others for longer periods of time; and

WHEREAS, the Los Angeles County “Responding together at Work and in the Community Order (8.23.21)” provides that all individuals and businesses are strongly encouraged to follow the Los Angeles County Public Health Department Best Practices. The Los Angeles County Public Health Department “Best Practices to Prevent COVID-19 Guidance for Businesses and Employers”, updated on September 13, 2021, recommend that employers take steps to reduce crowding indoors and to support physical distancing between employees and customers; and

WHEREAS, the unique characteristics of public governmental buildings is another reason for continuing teleconferenced meetings, including the increased mixing associated with bringing people together from across several communities, the need to enable those who are immunocompromised or unvaccinated to be able to safely continue to fully participate in public
meetings and the challenge of achieving compliance with safety requirements and recommendations in such settings; and

WHEREAS, the Beverly Hills City Council has adopted a resolution that continues to recommend steps to reduce crowding indoors and to support physical distancing at City meetings to protect the health and safety of meeting attendees; and

WHEREAS, due to the ongoing COVID-19 pandemic and the need to promote social distancing to reduce the likelihood of exposure to COVID-19, the City Council Liaison / Legislative/Lobby Committee intends to continue holding public meetings via teleconferencing pursuant to Government Code Section 54953(e).

NOW, THEREFORE, the City Council Liaison / Legislative/Lobby Committee of the City of Beverly Hills resolves as follows:

Section 1. The Recitals provided above are true and correct and are hereby incorporated by reference.

Section 2. The City Council Liaison / Legislative/Lobby Committee hereby determines that, as a result of the Emergency, meeting in person presents imminent risks to the health or safety of attendees.

Section 3. The City Council Liaison / Legislative/Lobby Committee shall continue to conduct its meetings pursuant to Government Code Section 54953(e).

Section 4. Staff is hereby authorized and directed to continue to take all actions necessary to carry out the intent and purpose of this Resolution including, conducting open and public meetings in accordance with Government Code Section 54953(e) and other applicable provisions of the Brown Act.
Section 5. The City Council Liaison / Legislative/Lobby Committee has reconsidered the circumstances of the state of emergency and finds that: (i) the state of emergency continues to directly impact the ability of the members to meet safely in person, and (ii) state or local officials continue to impose or recommend measures to promote social distancing.

Section 6. The Secretary of the City Council Liaison / Legislative/Lobby Committee shall certify to the adoption of this Resolution and shall cause this Resolution and her certification to be entered in the Book of Resolution of the City Council Liaison / Legislative/Lobby Committee of this City.

Adopted: August 16, 2022

JULIAN A. GOLD
Presiding Councilmember of the City Council Liaison / Legislative/Lobby Committee of the City of Beverly Hills, California
Item  B-1
CITY OF BEVERLY HILLS
POLICY AND MANAGEMENT

MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee

FROM: Cynthia Owens, Policy and Management Analyst

DATE: August 16, 2022

SUBJECT: H.R.1781 - PROTECT Kids Act

ATTACHMENTS: 1. Summary Memo – H.R. 1781
                2. Bill Text – H.R. 1781

The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City's location, economy, programs, and policies through the adoption of a Legislative Platform.

This item requests the City Council Legislative/Lobby Committee consider a position on H.R. 1781 - PROTECT Kids Act (“H.R. 1781”). This bill addresses the collection of personal information from children while online. The bill seeks to protect children from being taken advantage of or abused online by raising the standards of protection mandated by law for the collection of information by widening the definition of protected personal information, raising the age for parental consent protections to under 16, and extends all protections for children to mobile applications as well.

The City’s federal lobbyist, David Turch and Associates, provided a summary memo for H.R. 1781 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of H.R. 1781, the Liaisons may recommend the following actions:

1) Support H.R. 1781;
2) Support if amended H.R. 1781;
3) Oppose H.R. 1781;
4) Oppose unless amended H.R. 1781;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on H.R. 1781, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
TO: Cindy Owens, Policy and Management Analyst  
City of Beverly Hills

FROM: Seanne Weekes  
Seanne.weekes@davidturch.com  
202-543-3744

DATE: August 8, 2022

RE: H.R. 1781 - PROTECT Kids Act

On March 10, 2021 the Preventing Real Online Threats Endangering Children Today Act was introduced in the House. This bill addresses the collection of personal information from children while online. The bill seeks to protect children from being taken advantage of or abused online by raising the standards of protection mandated by law for the collection of information by widening the definition of protected personal information, raising the age for parental consent protections to under 16, and extends all protections for children to mobile applications as well. This bill will also require website operators, online service providers and mobile applications to delete a child’s personal information upon a verified request by a parent or guardian. It will also prohibit these operators from terminating service to a child whose parent or guardian has refused to permit the collection or use of that child’s personal information.

As part of the bill, the Federal Trade Commission must study and report on how appropriate the existing actual knowledge standard, which prevents an operator from collecting personal information without meeting certain requirements when it has actual knowledge that the information regards a child, is, and what effects changing this standard might have on children’s privacy while online or on mobile applications. This bill is currently in the House Energy and Commerce Committee in the subcommittee on Consumer Protection and Commerce. Currently the bill has one cosponsor, Representative Bobby Rush (D-IL), in addition to the sponsor, Representative Tim Walberg (R-MI).

A similar bill, S. 1628, the Children and Teens’ Online Privacy Protection Act was introduced in the Senate on May 13, 2021, by Senator Ed Markey (D-MA). Known as COPPA 2.0 in reference to the Children’s Online Privacy Protection Act, which was signed into law October 21, 1998, this bill will amend the current law to expand protections to all minors between 12 and 16 years old and strengthen the regulatory framework for upholding the law. There are 3 cosponsors for this bill, Senators Bill Cassidy (R-LA), Richard Blumenthal (D-CT) and Cynthia Lummis (R-WY). The bill was approved to move to the Senate floor by the Senate Committee on Commerce, Science and Transportation on Wednesday, July 27, 2022.

A third bill was introduced this year to address children’s safety online. S. 3663, the Kids Online Safety Act was introduced by Senator Richard Blumenthal (D-CT) on February 16, 2022. This bill focuses on online platform algorithmic recommendations and how they target children under the age of 16. There are 7 cosponsors for this bill. They are Senators Marsha Blackburn (R-TN), Ed Markey (D-MA), Shelley Moore Copito (R-WV), Ben Ray Lujan (D-NM), Bill Cassidy (R-LA), Tammy Baldwin (D-WI), and Joni Ernst (R-IA). The bill was approved to move forward to
the Senate floor by the Senate Committee on Commerce, Science and Transportation on Wednesday, July 27, 2022.

All three bills have yet to see either the House or Senate floor and are subject to extensive amendments and changes as they move forward. Both Senate bills are expected to see a floor vote when the Senate returns from recess.
Attachment 2
117TH CONGRESS  
1ST SESSION  
H. R. 1781  

To amend the Children’s Online Privacy Protection Act of 1998.

IN THE HOUSE OF REPRESENTATIVES  

MARCH 10, 2021  

Mr. WALBERG (for himself and Mr. RUSH) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL  
To amend the Children’s Online Privacy Protection Act of 1998.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Preventing Real Online Threats Endangering Children Today Act” or the “PROTECT Kids Act”.

SEC. 2. AMENDMENTS TO THE CHILDREN’S ONLINE PRIVACY PROTECTION ACT OF 1998.

(1) by inserting ‘‘, including a service provided through a mobile application,’’ after ‘‘online service’’ each place it appears;

(2) in section 1302—

(A) in paragraph (1), by striking ‘‘age of 13’’ and inserting ‘‘age of 16’’;

(B) in paragraph (8)—

(i) in the matter preceding subparagraph (A), by inserting ‘‘including a service provided through a mobile application’’ after ‘‘collected online’’;

(ii) by redesignating subparagraphs (F) and (G) as subparagraphs (H) and (I), respectively; and

(iii) by inserting after subparagraph (E) the following:

‘‘(F) precise geolocation information;

‘‘(G) biometric information;’’; and

(C) by adding at the end the following:

‘‘(13) MOBILE APPLICATION.—The term ‘mobile application’ means a software program that runs on the operating system of—

‘‘(A) a mobile telephone;

‘‘(B) a tablet computer; or
“(C) a similar portable computing device that transmits data over a wireless connection.

“(14) Biometric Information.—The term ‘biometric information’ means the record of any unique, immutable biological attribute or measurement generated by automatic measurements of a consumer’s biological characteristics, including fingerprints, genetic information, iris or retina patterns, facial characteristics, or hand geometry, that are used to uniquely and durably authenticate the identity of a consumer when such consumer accesses a physical location, device, system, or account.

“(15) Precise Geolocation Information.—The term ‘precise geolocation information’ means historical or real-time location information, or inferences drawn from other information, capable of identifying the location of an individual or a consumer device of an individual with specificity sufficient to identify street level location information or an individual’s or device’s location within a range of 1,640 feet or less.”; and

(3) in section 1303(b)—

(A) in paragraph (1)—
(i) in subparagraph (A)(I), by inserting “or mobile application” after “website”; and

(ii) in subparagraph (B)(ii), by striking “use or maintenance in retrievable form, or future online collection” and inserting “collection or use”; and

(B) by amending paragraph (3) to read as follows:

“(3) CONTINUATION OF SERVICE.—The regulations shall—

“(A) prohibit the operator of a website, online service, or mobile application from terminating service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator’s further collection or use of personal information from that child, or has required such operator to delete such information; and

“(B) require the operator, upon request of a parent whose child has provided personal information to that website or, online service, including a service provided through a mobile application, upon proper identification of that par-
ent, to delete any personal information collected
from such child.”

SEC. 3. FEDERAL TRADE COMMISSION STUDY.

(a) In General.—

(1) Not later than 2 years after the date of en-
actment of this Act, the Commission shall conduct
a study on the knowledge standard found in section
1303(a)(1) of the Children’s Online Privacy Protec-

(2) In conducting such study, the Commission
shall—

(A) consider whether the existing knowl-
edge standard is still appropriate for accom-
plishing the goals of this Act;

(B) consider the affect changing such
knowledge standard will have on children’s on-
line privacy, including whether it will increase
or decrease such privacy;

(C) consider the feasibility of complying
with any change to such knowledge standard;

(D) whether any Federal agency has stud-
ied such change; and

(E) whether any think tank or privacy ad-
vocacy or digital rights group has studied such
a change.
(3) Based on the study, the Commission shall—

(A) develop recommendations as to whether the knowledge standard should be changed;

(B) develop recommendations as to what the new knowledge standard should be, if appropriate;

(C) provide the basis for its recommendation to change the knowledge standard, if appropriate;

(D) cite examples of Federal agency studies on changing the knowledge standard; and

(E) cite examples of think tank or privacy advocacy or digital rights group studies on changing the knowledge standard.

(b) REPORT TO CONGRESS.—Following completion of the study pursuant to subsection (a), the Commission shall report the results and recommendations to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.
Item B-2
The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City's location, economy, programs, and policies through the adoption of a Legislative Platform.

This item requests the City Council Legislative/Lobby Committee consider a position on H.R. 8404: Respect for Marriage Act (“H.R. 8404”) . This bill provides statutory authority for same-sex and interracial marriages. It repeals and replaces provision that define, for purposes of federal law, marriage as between a man and a woman and spouse as a person of the opposite sex with provisions that recognize any marriage that is valid under state law. This item involves a policy matter that is not specifically addressed within the adopted Legislative Platform language.

The City’s federal lobbyist, David Turch and Associates, provided a summary memo for H.R. 8404 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of H.R. 8404, the Liaisons may recommend the following actions:

1) Support H.R. 8404;
2) Support if amended H.R. 8404;
3) Oppose H.R. 8404;
4) Oppose unless amended H.R. 8404;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on H.R. 8404, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
TO: Cindy Owens, Policy and Management Analyst  
City of Beverly Hills

FROM: Seanne Weekes  
Seanne.weekes@davidturch.com  
202-543-3744

DATE: August 8, 2022

RE: H.R. 8404: Respect for Marriage Act

On July 19, 2022, the House passed the Respect for Marriage Act with a bipartisan vote of 267-157. The bill received unanimous support from the Democrats and 47 votes from Republicans. The measure was introduced in the House on July 18, 2022. The bill provides statutory authority for same-sex and interracial marriages. It repeals and replaces provision that define, for purposes of federal law, marriage as between a man and a woman and spouse as a person of the opposite sex with provisions that recognize any marriage that is valid under state law. This bill follows the 2013 Supreme Court ruling that held that the current provisions were unconstitutional in United States v. Windsor. Included is language that repeals and replaces provisions that do not require states to recognize marriages considered valid in and from other states, with language that prohibits the denial of full faith and credit or any right or claim relating to out-of-state marriages on the basis of sex, race, ethnicity, or national origin. Once again upholding Supreme Court rulings: Loving v. Virginia in 1967 which holds that states barring interracial marriages were unconstitutional, and Obergefell v. Hodges in 2015, which holds that state laws barring same-sex marriages were unconstitutional.

The bill was received in the Senate on July 20, 2022 and has been placed on the Senate Legislative Calendar. The House version of the bill has received broad public support from organizations and companies as far reaching as Disney, Sony, Apple, NBCUniversal, Comcast, the American Civil Liberties Union, the Human Rights Campaign, the Campaign for Southern Equality, WPP, Daniel J. Edelman Holdings, and PricewaterhouseCoopers, among many others. A letter released on the 5th of August, 2022 by the Human Rights Campaign includes more than a hundred other companies and organizations who support the passage of this act. (Final-Respect-for-Marriage-Act-Letter-to-the-Senate-8.2022.pdf (hrc-prod-requests.s3-us-west-2.amazonaws.com))

The bill is expected to see a Senate floor vote in September and all 50 Democrats are expected to vote in favor. In order to pass, the bill will need to secure a filibuster proof minimum of 60 votes. Between overtly-stated public support and privately mentioned support from a number of Republicans, it appears that the bill may pass.
Attachment 2
AN ACT

To repeal the Defense of Marriage Act and ensure respect for State regulation of marriage, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Respect for Marriage Act”.

SEC. 2. REPEAL OF SECTION ADDED TO TITLE 28, UNITED STATES CODE, BY SECTION 2 OF THE DEFENSE OF MARRIAGE ACT.

Section 1738C of title 28, United States Code, is repealed.
SEC. 3. FULL FAITH AND CREDIT GIVEN TO MARRIAGE EQUALITY.

Chapter 115 of title 28, United States Code, as amended by this Act, is further amended by inserting after section 1738B the following:

“§ 1738C. Certain acts, records, and proceedings and the effect thereof

“(a) IN GENERAL.—No person acting under color of State law may deny—

“(1) full faith and credit to any public act, record, or judicial proceeding of any other State pertaining to a marriage between 2 individuals, on the basis of the sex, race, ethnicity, or national origin of those individuals; or

“(2) a right or claim arising from such a marriage on the basis that such marriage would not be recognized under the law of that State on the basis of the sex, race, ethnicity, or national origin of those individuals.

“(b) ENFORCEMENT BY ATTORNEY GENERAL.—The Attorney General may bring a civil action in the appropriate United States district court against any person who violates subsection (a) for declaratory and injunctive relief.

“(c) PRIVATE RIGHT OF ACTION.—Any person who is harmed by a violation of subsection (a) may bring a civil action in the appropriate United States district court
against the person who violated such subsection for declar-
atory and injunctive relief.

“(d) STATE DEFINED.—In this section, the term
‘State’ has the meaning given such term under section 7
of title 1.”.

SEC. 4. MARRIAGE RECOGNITION.

Section 7 of title 1, United States Code, is amended
to read as follows:

“§ 7. Marriage

“(a) For the purposes of any Federal law, rule, or
regulation in which marital status is a factor, an indi-
vidual shall be considered married if that individual’s mar-
riage is valid in the State where the marriage was entered
into or, in the case of a marriage entered into outside any
State, if the marriage is valid in the place where entered
into and the marriage could have been entered into in a
State.

“(b) In this section, the term ‘State’ means a State,
the District of Columbia, the Commonwealth of Puerto
Rico, or any other territory or possession of the United
States.

“(c) For purposes of subsection (a), in determining
whether a marriage is valid in a State or the place where
entered into, if outside of any State, only the law of the
jurisdiction applicable at the time the marriage was entered into may be considered.”.

SEC. 5. SEVERABILITY.

If any provision of this Act, or any amendment made by this Act, or the application of such provision to any person, entity, government, or circumstance, is held to be unconstitutional, the remainder of this Act, or any amendment made thereby, or the application of such provision to all other persons, entities, governments, or circumstances, shall not be affected thereby.

Passed the House of Representatives July 19, 2022.

Attest: CHERYL L. JOHNSON,

Clerk.
To repeal the Defense of Marriage Act and ensure respect for State regulation of marriage, and for other purposes.

AN ACT

H. R. 8404

117TH CONGRESS

Calendar No. 449

July 21, 2022

Read the second time and placed on the calendar.
Item B-3
The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City's location, economy, programs, and policies through the adoption of a Legislative Platform.

This item presents a request by Councilmember Mirisch for the City Council Legislative/Lobby Committee to consider a position on Proposition 27. This proposition would legalize online and mobile sports wagering, which currently is prohibited, for persons 21 years and older. Such wagering may be offered only by federally recognized Indian tribes and eligible businesses that contract with them.

What would Proposition 27 do?

Proposition 27 proposes a constitutional amendment and statute to authorize a gaming tribe, an online sports betting platform with an operating agreement with a gaming tribe, or a qualified gaming company with a market access agreement with a gaming tribe to operate online sports betting for individuals 21 years of age or older in California but outside of Indian lands. Currently, mobile and in-person sports betting is illegal in California.

The constitutional amendment would prohibit online sports betting on youth sports. Should it pass, Proposition 27 creates the Division of Online Sports Betting Control within the Department of Justice. The initiative would give the division authority to regulate the online sports betting industry and investigate illegal sports betting activities. The amendment would take effect on January 1, 2023.

Additionally, Proposition 27 would establish the California Online Sports Betting Trust Fund. The revenue from licensing fees, renewals, and the sports wagering tax would be deposited into the fund. After deducting regulatory costs, 85 percent of the fund's revenues would be allocated to California Solutions to Homelessness and Mental Health Support Account for permanent and interim housing and 15 percent of revenues to the Tribal Economic Development Account, which would be established by the initiative to provide funds to Indian tribes for expanding tribal government, public health, education, infrastructure, and economic development.

Who supports and opposes Proposition 27?

Californians for Solutions to Homelessness and Mental Health Support is leading the campaign in support of Proposition 27. As of June 30, the campaign had raised over $100 million. Its top three donors include BetMGM LLC, Betfair Interactive US LLC (FanDuel Sportsbook), and
Nathan Click, a spokesman for the campaign, said, "Our measure is the only one that would guarantee hundreds of millions each year in solutions to homelessness and mental health support. We have found Californians are enthusiastic about it and the housing and mental health solutions it would provide the state."

Californians for Tribal Sovereignty and Safe Gaming and Coalition for Safe, Responsible Gaming are leading campaigns in opposition to the initiative. Together the committees have raised $114.13 million. The top three donors include the San Manuel Band of Mission Indians, the Pechanga Band of Luiseno Indians, and the Yocha Dehe Wintun Nation. Chairman James Siva of the California Nations Indian Gaming Association said, "Don't be fooled. These measures are not a fix to homelessness, but rather a massive explosion of gaming that will directly undercut tribal sovereignty and self-sufficiency."

The League of California Cities ("Cal Cities") voted in July 2022 to oppose this ballot measure as it:
- Jeopardizes local tax revenues,
- Fails to ensure that all California cities receive funding to address homelessness,
- Lacks proper enforcement mechanisms commensurate with the substantial increase in virtual sports wagering, and
- Creates an unlevel playing field between existing cardrooms and new market participants.

**Where else is sports betting legal?**

As of June 28, 2022, sports betting was legal, or laws to legalize had been approved, in 35 states as well as Washington, D.C. Five of the states—New Jersey (2011), Arkansas (2018), Colorado (2019), Maryland (2020), and South Dakota (2020)—legalized sports betting through a ballot measure.

After discussion of Proposition 27, the Liaisons may provide any direction they wish including
- Adopting a position of support,
- Adopting a position of oppose,
- Or any other direction.

Should the Liaisons recommend the City take a position on Proposition 27, then staff will place the item on a future City Council Agenda for concurrence. Typically, this would include adopting a resolution in support/oppose of Proposition 27.
Attachment 1
October 5, 2021

VIA PERSONAL DELIVERY

Hon. Rob Bonta
Attorney General of California
1300 I Street, 17th Floor
Sacramento, CA 95814

Attention: Ms. Anabel Renteria, Initiative Coordinator

Re: Request for Title and Summary for Proposed Initiative Constitutional Amendment (A.G. No. 21-0017) – Amended Language

Dear Mr. Bonta:

Pursuant to Section 9002(b) of the California Elections Code, please find attached hereto amendments to the above-captioned initiative measure. We hereby request that a title and summary be prepared for the initiative measure using the amended language. Our addresses as registered voters, the required proponent affidavits pursuant to Sections 9001 and 9608 of the California Elections Code, and a check for $2,000.00 were included with the original submission.

All inquiries or correspondence relative to this initiative should be directed to:

Kurt R. Oneto
Nielsen Merksamer LLP
1415 L Street, Suite 1200
Sacramento, CA 95814
(916) 446-6752

Sincerely,

Kurt R. Oneto, Proponent

Enclosure: Proposed Initiative Constitutional Amendment – Amended Language
VIA PERSONAL DELIVERY

Hon. Rob Bonta
Attorney General of California
1300 I Street, 17th Floor
Sacramento, CA 95814

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Kurt R. Oneto
Nielsen Merksamer LLP
1415 L Street, Suite 1200
Sacramento, CA 95814
(916) 446-6752

Thank you for your assistance.

Sincerely,

[Signature]

John J. Moffatt, Proponent

Enclosure: Proposed Initiative Constitutional Amendment – Amended Language
Section 1. Title.

This measure shall be known and may be cited as the California Solutions to Homelessness and Mental Health Support Act.

Section 2. Statement of Intent and Purposes.

The People of the State of California find and declare the following:

(a) California's homelessness and mental health crises demand action. Nearly half of all unsheltered people in the country live in California, and public school data shows that more than 250,000 public school students are experiencing homelessness.

(b) Mental health disorders are among the most common health conditions faced by Californians: Nearly 1 in 6 California adults experience a mental illness of some kind; 1 in 24 has a serious mental illness that makes it difficult to carry out major life activities; and 1 in 13 children has an emotional disturbance that limits participation in daily activities. With no adequate permanent funding stream, every level of government has disinvested in mental health services – leaving those in most dire need of support without help.

(c) In May 2018, the United States Supreme Court eliminated the federal prohibition on sports betting. As a result, states now have the freedom to authorize online sports betting at locations within their borders and establish regulations, consumer protections, responsible gaming measures, and taxes on online sports betting.

(d) Unregulated and untaxed online sports betting is currently happening throughout California in the illegal market without any consumer or responsible gaming protections. Leading economists and industry experts estimate the illegal market has flourished with billions of dollars bet online annually across the United States.

(e) Allowing state-regulated entities to offer responsible online sports betting that includes a comprehensive licensing process, limits online sports betting to individuals 21 years of age or older, and imposes enforcement and accountability measures will generate billions of dollars in revenue to help fight homelessness and expand mental health support in California.
(f) Safe, legal online sports betting that allows people who are 21 years or older to enjoy sports betting over the Internet and on mobile devices should require online sports betting operators to put in place age verification and information-sharing technologies that have been proven effective in other states at preventing minors from participating and impose penalties and fines for violations.

(g) Safe and legal online sports betting should be regulated by the California Department of Justice to ensure minors and children are protected, the integrity of sporting events is maintained, and operators are properly licensed. Smart technologies and information-sharing amongst sports leagues, online sports betting operators, and the Department should be employed to protect minors and maintain sports integrity.

(h) Online sports betting requires the expertise of entities with significant experience operating online sports betting platforms in other U.S. states and territories. Therefore, gaming tribes should be given the option of offering state-regulated online sports betting to individuals who make bets while physically present in this State but outside of Indian lands; qualified online sports betting platform providers should be able to offer their products and services to gaming tribes; and qualified gaming entities that have a market access agreement with a gaming tribe should be permitted to offer online sports betting in this state.

(i) The legal market for online and in-person sports betting must be operated by persons and entities with the ability to protect consumers, prevent minors from accessing sports betting, promote and preserve responsible play, and facilitate a marketplace that responsibly maximizes revenue to accomplish the public policy purposes of this Act. This Act imposes minimum qualifications that such persons and entities must satisfy before they may offer online sports betting in the State of California.

(j) Online and in-person sports betting are complementary and supplementary to each other. They can be offered concurrently in California in order to maximize the amount of tax revenue generated.

Section 3. Section 19.5 is added to Article IV of the California Constitution, to read:

SEC. 19.5. Notwithstanding any contrary provision of this Constitution or any other law:
(a) A gaming tribe, an online sports betting platform provider with an operating agreement with a gaming tribe, or a qualified gaming entity with a market access agreement with a gaming tribe may offer, conduct, and/or operate online sports betting over the Internet and on mobile devices to persons aged 21 years or older physically present anywhere in this State but outside of Indian lands of a federally recognized Indian tribe.

(b)(1) Online sports betting shall only be offered, conducted, and/or operated in this State but outside of Indian lands as specifically set forth in Chapter 4.7 (commencing with Section 19750) of Division 8 of the Business and Professions Code.

(2) The implementation and administration of this section shall be governed by Chapter 4.7 (commencing with Section 19750) of Division 8 of the Business and Professions Code, the provisions of which are hereby expressly authorized and required by this section of the Constitution.

(c) Online sports betting shall not be permitted on youth sports events.

(d)(1) The taxes imposed by Article 8 (commencing with Section 19775) of Chapter 4.7 of Division 8 of the Business and Professions Code shall be in lieu of and preempt all other existing or future state and local taxes imposed on any of the following:

(A) An online sports betting operator in its capacity as an online sports betting operator.

(B) The offering, conduct, and/or operation of online sports betting.

(C) The revenues or income generated from online sports betting.

(2) Notwithstanding paragraph (1), this subdivision does not prohibit the imposition of a tax where all of the following apply:

(A) The tax is generally applicable to a broad range of businesses, business activity, conduct, property, or products.
(B) The tax does not establish or rely on a classification related to or involving any of the following: (i) online sports betting operators; (ii) the offering, conduct, and/or operation of online sports betting; or (iii) the revenues or income from online sports betting.

(C) The tax is applied in a manner that avoids additional taxation of the operation of, or revenues or income generated by, online sports betting.

(e) Any word or phrase appearing in this section that also appears in Article 13 (commencing with Section 19794) of Chapter 4.7 of Division 8 of the Business and Professions Code shall be defined by those statutory definitions.

(f) This section shall take effect on the next January 1 following its approval by the People of the State of California.

Section 4. Chapter 4.7 (commencing with Section 19750) is added Division 8 of the Business and Professions Code, to read:

CHAPTER 4.7. ONLINE SPORTS BETTING


19750. California Online Sports Betting Trust Fund.

(a) The California Online Sports Betting Trust Fund (“Fund”) is hereby established in the State Treasury.

(b) Notwithstanding any other provision of law, the Fund, and every account within the Fund, is hereby declared to be a trust fund.

(c) Except as provided in Sections 16310 and 16381 of the Government Code, as those sections read on January 1, 2018, moneys in the Fund shall not be borrowed, loaned, or otherwise transferred to the General Fund or other fund in the State Treasury. Moneys deposited into the Fund, and any account within the Fund, including any interest earned thereon, shall only be used for the specific purposes set forth in this chapter. No action shall be taken that
permanently or temporarily changes the status of the Fund as a trust fund, or borrows, diverts, or appropriates the moneys in the Fund in a manner inconsistent with this chapter.

(d) After deducting and transferring the necessary moneys pursuant to paragraph (2) of subdivision (c) of Section 19751 and repaying the loan authorized by Section 19784, the Controller shall annually allocate and transfer the remaining moneys in the Fund to the following accounts, in the following amounts:

(1)(A) Eighty-five percent (85%) to the California Solutions to Homelessness and Mental Health Support Account, which is hereby created in the Fund. As set forth in this paragraph, moneys in the account shall be appropriated pursuant to Section 12 of Article IV of the Constitution for the purpose of delivering permanent and interim housing, including rental assistance, supportive services, and operating subsidies or reserves for these purposes.

(i) Moneys in the account shall be made available to cities, counties, and continuums of care according to the same allocation formula for the most recent fiscal year used to distribute moneys to those entities under the Homelessness Housing, Assistance, and Prevention program established in Chapter 6 (commencing with Section 50216) of Part 1 of Division 31 of the Health and Safety Code (the “HHAP law”), or any successor statute.

(ii) Moneys appropriated from the account shall be provided to cities, counties, and continuums of care with the same accountability and reporting requirements as established in the HHAP law, or any successor statute.

(iii) Moneys appropriated from the account may be further restricted to advancing the state’s goals of improving outcomes for people experiencing homelessness who need access to mental health, substance use disorder treatment, and service enhanced housing.

(B) Moneys in the account, or a portion thereof, may be committed to the repayment of revenue bond indebtedness. The proceeds of any such revenue bonds shall be used solely and exclusively in furtherance of the purposes described in subparagraph (A). No moneys in the account shall ever be committed to the repayment of general obligation bonds.
(C) Notwithstanding subparagraph (A), a portion of the moneys in the account may also be appropriated for mental health treatment programs under Chapter 8 (commencing with Section 4369) of Part 3 of Division 4 of the Welfare and Institutions Code.

(D) Moneys allocated pursuant to this paragraph shall be used to increase and enhance the purposes described in subparagraphs (A) and (C), and not to replace any other existing revenues for those purposes including, but not limited to, existing revenue sources that support the HHAP law. The State and recipient cities, counties, and continuums of care bear the burden of proving by clear and convincing evidence that the moneys allocated pursuant to this paragraph are not being used to supplant preexisting revenues.

(E)(i) Except as provided in clause (ii), not more than forty percent (40%) of the moneys in the account shall be appropriated or used for interim housing.

(ii) In any fiscal year in which moneys appropriated for the HHAP law are equal to, or greater than, the amount appropriated for that purpose during the 2021-2022 fiscal year, the restriction in clause (i) shall not apply.

(2)(A) Fifteen percent (15%) to the Tribal Economic Development Account, subject to subparagraph (B).

(B) In the event that Section 19769 is found by a court of competent jurisdiction to be unenforceable in whole or in part under state or federal law, then the moneys described in subparagraph (A) shall instead be allocated and transferred by the Controller to the California Solutions to Homelessness and Mental Health Support Account.

(e)(1) Moneys shall be appropriated from the Fund pursuant to Section 12 of Article IV of the Constitution in order to cover the operational expenses incurred by the Division and the Department in carrying out this chapter. The annual appropriation for the Division and the Department shall be clearly sufficient to ensure that the Division is adequately staffed, that online sports betting is adequately regulated, and that the purposes of this chapter are being faithfully carried into effect.
(2) Of the moneys appropriated pursuant to this subdivision, eighty-five percent (85%) shall be drawn from the California Solutions to Homelessness and Mental Health Support Account and fifteen percent (15%) shall be drawn from the Tribal Economic Development Account.

19751. California Online Sports Betting Trust Fund Oversight and Accountability.

(a) The People of the State of California hereby declare their unqualified intent for the revenues generated by this chapter to be used to support the purposes set forth in Section 19750 without delay or interruption. The purpose of this section is to provide oversight and accountability mechanisms to guarantee that the People’s intent is carried out.

(b) The Attorney General or local district attorney shall expeditiously investigate, and may seek civil or criminal penalties for, any misuse or unauthorized use, of moneys deposited into, or appropriated from, the California Online Sports Betting Trust Fund or any account within the Fund.

(c)(1) The nonpartisan California State Auditor shall conduct a biennial independent financial audit of the programs receiving moneys from the Fund. The California State Auditor shall report its findings to the Governor and both houses of the Legislature, and shall make the findings available to the public on its Internet website.

(2)(A) The California State Auditor shall be reimbursed from moneys in the Fund for actual costs incurred in conducting the biennial audits required by this subdivision, in an amount not to exceed six hundred thousand dollars ($600,000) per audit.

(B) The six hundred thousand dollar ($600,000) per audit maximum limit shall be adjusted decennially to reflect any increase in inflation as measured by the Consumer Price Index for All Urban Consumers (CPI-U). The Treasurer’s office shall calculate and publish the adjustments required by this subparagraph.

(d)(1) If any challenge to invalidate an action that violates the use of moneys allocated or appropriated pursuant to this chapter, as specified in this chapter, is successful either by way of a final judgment, settlement, or resolution by judicial, administrative, or legislative action, there is
hereby continuously appropriated from the General Fund to the Controller, without regard to fiscal years, that amount of money necessary to restore the California Online Sports Betting Trust Fund, or account within the Fund, to its financial status had the unlawful action not been taken.

(2) Interest calculated at the Pooled Money Investment Account rate from the date or dates the moneys were unlawfully used shall accrue to the amounts required to be restored pursuant to this section. Within 30 days from the date a challenge is successful, the Controller shall make the transfer required by the continuous appropriation set forth in paragraph (1) and issue a notice to the parties that the transfer has been completed.

(3) If in any challenge brought pursuant to this section a restraining order or preliminary injunction is issued, the plaintiffs or petitioners shall not be required to post a bond obligating the plaintiffs or petitioners to indemnify the government defendants or the State of California for any damage the restraining order or preliminary injunction may cause.

(e)(1) Every four years, the Controller shall conduct a performance audit of efforts and programs funded with moneys from the California Solutions to Homelessness and Mental Health Support Account to ensure the moneys are disbursed and expended solely according to this chapter and shall report his or her findings to the Governor, the Legislature, and the public.

(2) Money in the California Solutions to Homelessness and Mental Health Support Account may be appropriated pursuant to Section 12 of Article IV of the Constitution in order to reimburse the Controller for the cost of conducting the audit(s) required by this subdivision. If moneys are appropriated from that account for this purpose, the amount shall not exceed the dollar limit described in paragraph (2) of subdivision (c).

19751.5. Tribal Economic Development Account.

(a) The Tribal Economic Development Account is hereby created in the California Online Sports Betting Trust Fund.

(b)(1) Notwithstanding Section 13340 of the Government Code or any other law, all moneys deposited in the Tribal Economic Development Account, together with any interest
earned thereon, are hereby continuously appropriated, without regard to fiscal years, to federally recognized Indian tribes in California that do not have any of the following: (A) a tribal operator license; (B) an operating agreement with an online sports betting platform provider; or (C) a market access agreement with a qualified gaming entity.

(2) Commencing not sooner than one year after the effective date of this chapter, the Controller shall transfer revenues in the Tribal Economic Development Account to Indian tribes described in paragraph (1). The transfers shall be made pursuant to the procedures adopted pursuant to subdivision (c).

(c) The Division shall, in consultation with the California Gambling Control Commission and the Governor's Tribal Advisor, adopt a regulation establishing a formula for allocating moneys in the Tribal Economic Development Account amongst Indian tribes described in paragraph (1) of subdivision (b). The formula shall, at a minimum, provide the method of allocation and a schedule for payments to be made.

(d) Moneys received by Indian tribes pursuant to this section may be used to support, improve, and expand tribal government, public health, education, infrastructure, economic development, and employment opportunities.

ARTICLE 2. Protection of Minors and Consumers.

19752. Minors Prohibited from Engaging in Online Sports Betting.

(a) A person under 21 years of age shall not do any of the following:

(1) Either personally or through an agent place, or collect winnings from, bets on any sporting event.

(2) Present or offer to any online sports betting operator, or any agent of such operator, any written, printed, or photostatic evidence of age and identity that is false, fraudulent, or not actually their own for the purpose of placing a bet on a sporting event.

(3) Open, maintain, or use in any way an online sports betting account or make or attempt to make an online sports bet.
(b) A person shall not knowingly do either of the following:

(1) Accept or redeem a bet placed by, or offer to accept or redeem a bet on behalf of, a person known to be under 21 years of age.

(2) Allow a person known to be under 21 years of age to open, maintain, or use in any way an online sports betting account or make an online sports bet.

(c) A person who violates this section shall be subject to penalties imposed by the Division as set forth in Section 19781. A person holding a license under this chapter who violates this section shall be subject to further administrative discipline imposed by the Division.

19753. Consumer Protections and Requirements.

(a) An online sports betting operator shall use commercially reasonable efforts to verify that a person placing, making, or initiating a bet on a sporting event is of the legal minimum age for placing such a bet.

(b) An online sports betting operator shall display on its website and mobile application a statement that it is illegal for a person under 21 years of age to engage in online sports betting in this State.

(c) An online sports betting operator shall display a link on its online sports betting platform to an Internet webpage or mobile application screen dedicated to responsible gaming, which shall include all of the following:

(1) Tools for imposing voluntary self-restrictions on betting activity.

(2) A prominent message stating “If you or someone you know has a gambling problem and wants help, call 1-800 GAMBLER,” or similar message.

(3) A link to an appropriate organization that provides information regarding responsible gaming.
(d) An online sports betting operator shall implement responsible gaming programs that include providing commercially reasonable training to employees with respect to identifying and responding to signs of problem gaming.

19754. Voluntary Restrictions on Betting Activity.

(a) An online sports betting operator shall allow individuals to voluntarily exclude themselves from placing bets with the operator, and shall use commercially reasonable efforts to prevent self-excluded individuals from placing bets.

(b) The Division shall establish a process through which individuals may submit requests to be excluded from sports betting with all online sports betting operators. The Division shall maintain a list of individuals who have self-excluded from placing bets on sporting events and shall make the list accessible to all online sports betting operators.

(c) Any bets placed by an individual prior to self-exclusion shall be permitted to settle and shall not be required to be cancelled.


(a) An online sports betting operator shall:

(1) Use commercially and technologically reasonable means to ensure marketing and advertisements do not purposefully target individuals who have self-excluded from placing bets on sporting events.

(2) Employ commercially reasonable methods to ensure that advertisements for online sports betting:

(A) Do not purposefully target minors, other persons who are ineligible to place bets, or self-excluded individuals.

(B) Disclose the identity of the online sports betting operator.

(C) Provide information about, or links to, resources relating to problem gaming.
(D) Are not false, misleading, or deceptive to a reasonable consumer.

(E) Clearly and conspicuously disclose the material terms of any offer of free or promotional credits. Online advertisements may satisfy this paragraph by containing a hyperlink that takes the viewer directly to the material terms.

(3) Maintain a copy of all advertisements to consumers in this State for no less than three years.

(b) An online sports betting operator shall not be required to obtain prior Division review or approval of any advertisement or promotion.

(c) An operator applicant may engage in pre-launch marketing that clearly discloses the operator applicant is not currently offering, conducting, and/or operating online sports betting in this State.

(d) No limit shall be placed on the type or amount of free bets or promotional credits offered or issued by an online sports betting operator.

19756. Conduct of Online Sports Betting.

(a) Each online sports betting operator shall adopt house rules for game play governing online sports betting transactions with its customers. The rules shall include, at a minimum, all of the following:

(1) The method for calculating and paying winning bets.

(2) The effect on bets, if any, of sports event schedule changes.

(3) The method of notifying consumers of odds changes.

(4) The method of contacting the online sports betting operator for purposes of seeking assistance or lodging complaints.

(5) A description of persons prohibited from placing bets on specific sporting events based upon their association with a sports governing body, sports league, team, or sports event.
(6) The methods of funding an online sports betting account.

(7) The circumstances under which an online sports betting operator may void a bet in its discretion, including obvious errors, and the method for notifying consumers that a bet has been voided.

(b) Customers may establish online sports betting accounts with an online sports betting operator in both of the following ways:

(1) Over the Internet, including on mobile devices.

(2) In-person at locations approved by the Division, if offered by the online sports betting operator.

(c) A customer shall not register more than one account with each online sports betting platform. Online sports betting operators shall use commercially reasonable means to ensure that each customer is limited to one account per platform.

(d) An online sports betting operator may permit account holders to deposit funds into, and withdraw funds from, online sports betting accounts over the Internet, including on mobile devices. Permissible methods of funding and withdrawal include, but are not limited to, credit cards, debit cards, gift cards, reloadable prepaid cards, free and promotional credit, automated clearing house transfers, online and mobile payment systems that support online money transfers, and wire transfers. The Division may approve additional funding and withdrawal methods including, but not limited to, cash deposits at approved locations and secure cryptocurrencies.

(e) Each online sports betting operator shall use commercially reasonable geolocation and geofencing technology to ensure that it accepts bets only from customers who, at the time of placing the bet, are physically present in this State but not physically present on Indian lands.

(f) Each online sports betting operator shall determine and display applicable lines, point spreads, odds, or other information pertaining to online sports betting. The Division shall not specify the manner in which the lines, point spreads, or odds are determined and shall not require such information to be publicly disclosed. The Division shall not set or require a minimum or maximum hold rate.
(g)(1) An online sports betting operator shall maintain in this State, or any other location approved by the Division and consistent with federal law, the computer server or servers used to receive transmissions of requests to place bets and that transmit confirmation of acceptance of bets on sports events placed by customers physically present in this State but outside of Indian lands.

(2) All bets authorized under this chapter must be initiated, made, or otherwise placed by a bettor while physically present within this State but outside of Indian lands.

(3) The intermediate routing of electronic data related to lawful intrastate bets authorized under this chapter shall not determine the location or locations in which the bet is initiated, transmitted, received, or otherwise made.

19757. Risk Management.

(a) An online sports betting operator that is licensed to offer sports betting, whether in-person or online, in this State and one or more other U.S. states or territories may pool liquidity from all such states and territories.

(b) An online sports betting operator may employ systems that offset loss or manage or lay off risk in the offering, conduct, and/or operation of online sports betting.

(c) The systems described in subdivision (b) include, but are not limited to, liquidity pools and exchanges or similar mechanisms with other U.S. states or territories where the online sports betting operator is licensed to offer, conduct, and/or operate sports betting, whether in-person or online.

(d) An online sports betting supplier that is licensed to offer sports betting, whether in-person or online, in this State and one or more other U.S. states or territories may employ the systems described in this section on behalf of an online sports betting operator.

(e) An online sports betting operator, or an online sports betting supplier acting on behalf of an online sports betting operator, shall at all times ensure sufficient funds are available to pay registered players in any liquidity pool.
ARTICLE 3. Protection of Sports Integrity.

19758. Maintaining the Integrity of Sporting Events.

An online sports betting operator shall employ commercially reasonable methods to do all of the following:

(a) Prohibit the online sports betting operator’s directors, officers, principal owners, and employees, and any relative living in the same household as those persons, from placing bets with that online sports betting operator.

(b)(1) Prohibit the following persons from placing a bet on any sporting event under the authority of their sports league: athletes, coaches, referees, principal owners of teams, sports league members, and officials of unions that represent athletes or referees.

(2) In determining which persons are excluded from placing bets on specific sporting events under this subdivision, an online sports betting operator shall rely solely and exclusively on lists of such persons that sports leagues may provide to the Division. The Division shall disseminate any such lists to online sports betting operators.

(c) Prohibit any known individual with access to non-public confidential betting information held by the online sports betting operator from placing bets with that operator.

(d)(1) Maintain the security of betting data, customer data, and other confidential information from unauthorized access and dissemination.

(2) Notwithstanding paragraph (1), nothing in this chapter shall preclude the use of Internet or cloud-based hosting of data and information, or the disclosure of data or information as required by law or court order.

(e) Conduct background checks on employees who have not previously undergone a background check during the course of their employment with the online sports betting operator. Background checks shall search for criminal history, including any charges or convictions involving corruption or manipulation of sporting events and association with organized crime.
Section 19759. Abnormal Betting and Other Suspicious Activity.

(a) The Department shall have primary responsibility for conducting, or assisting the Division in conducting, investigations into abnormal betting activity, match fixing, and other conduct that corrupts a betting outcome of a sporting event or events for purposes of financial gain.

(b) The Division and online sports betting operators shall use commercially reasonable efforts to cooperate with investigations conducted by sports governing bodies or law enforcement agencies. These efforts shall include, but are not limited to, using commercially reasonable efforts to provide, or arrange the providing of, betting information.

(c)(1) An online sports betting operator shall, as soon as practicable, report to the Division any information relating to:

(A) Criminal or material disciplinary proceedings commenced against the online sports betting operator by this State, another U.S. state or territory, or the United States, in connection with its operations.

(B) Abnormal betting activity or patterns that may indicate a concern with the integrity of a sporting event or events.

(C) Any other conduct that corrupts a betting outcome of a sporting event or events for purposes of financial gain, including match fixing.

(D) Suspicious or illegal betting activities if known to the operator, including but not limited to use of funds derived from illegal activity, bets to conceal or launder funds derived from illegal activity, using agents to place bets, or using false identification. Nothing herein shall require the disclosure of suspicious activity reports made pursuant to and deemed to be confidential under federal law.

(2) An online sports betting operator shall implement commercially reasonable internal controls designed to identify the activities described in this subdivision.
(3) The information described in subparagraphs (B) and (C) of paragraph (1) shall be reported by an online sports betting operator as soon as practicable and simultaneously to the relevant sports governing body and the Division.

(d) The Division and online sports betting operators shall maintain the confidentiality of information provided by a sports governing body for purposes of investigating or preventing the activities described in subparagraphs (B) and (C) of paragraph (1) of subdivision (c), unless the disclosure is consented to by the sports governing body or is required by state law, the Division, or court order.

19759.5. Restrictions on Betting Requested by Sports Governing Bodies.

(a)(1) A sports governing body may submit to the Division a written request, in a form prescribed by the Division, to restrict, limit, or exclude a certain type, form, or category of online sports betting with respect to a covered sporting event of the sports governing body, if the sports governing body believes that such type, form, or category of online sports betting with respect to the covered sporting event of the sports governing body may undermine the integrity or perceived integrity of such body or covered sporting events of such body.

(b) The Division shall request comment from online sports betting operators on all requests made pursuant to this section. After giving due consideration to all comments received, the Division shall, upon a demonstration of good cause from the requestor that such type, form, or category of sports betting is likely to undermine the integrity or perceived integrity of such body or sporting events of such body, grant the request.

(c)(1) The Division shall respond to a request concerning a covered sporting event before the start of the event, or, if it is not feasible to respond before the start of the event, no later than 7 days after the request is made.

(2) If the Division determines that the requestor is more likely than not to prevail in successfully demonstrating good cause for its request, the Division may provisionally grant the request of the sports governing body pending the Division’s final determination thereon. Unless the Division provisionally grants the request, online sports betting operators may continue to
offer sports betting and accept bets on the covered sporting event pending a final determination by the Division.

Section 19760. Records of Bets.

(a) Online sports betting operators shall maintain records of all bets placed, including personally identifiable information of the bettor, amount and type of bet, time the bet was placed, location of the bet, including IP address if applicable, the outcome of the bet, and records of abnormal betting activity for three years after the sporting event occurs. If a video recording of the transaction is created, it shall be maintained for at least one year from the date the sporting event occurred. Online sports betting operators shall make such data available for inspection upon request of the Division or as required by court order.

(b) Online sports betting operators shall use commercially reasonable efforts to maintain in real time and at the account level, anonymized information regarding a bettor, amount and type of bet, the time the bet was placed, the location of the bet, including the IP address if applicable, the outcome of the bet, and records of abnormal betting activity. The Division may request such information in the form and manner as required by rule of the Division. Nothing in this subdivision shall require an online sports betting operator to provide any information that is prohibited by federal, state or local laws or regulations, including without limitation laws and regulations relating to privacy and personally identifiable information.

(c) If a sports governing body has notified the Division that access to the information described in subdivision (a) for bets placed on sporting events of such sports governing body is necessary to monitor the integrity of such body’s sporting events, and represents to the Division that it specifically uses such data for the purpose of monitoring the integrity of sporting events of such sports governing body, then online sports betting operators shall share, in a commercially reasonable frequency, form, and manner, with the sports governing body or its designee(s) the same information the online sports betting operator is required to maintain under subdivision (b) with respect to bets on sporting events of such sports governing body. Sports governing bodies and their designees may only use information received under this section for integrity-monitoring purposes and may not use information received under this section for any commercial or other purpose. Nothing in this section shall require an online sports betting operator to provide any
information that is prohibited by federal, state or local laws or regulations, including without limitation laws and regulations relating to privacy and personally identifiable information.

19761. Permissible Online Sports Betting Types and Events.

(a)(1) The Division shall maintain in real time a publicly accessible list of sports events, sports leagues, and bet types that are authorized for online sports betting pursuant to this chapter.

(2) An online sports betting operator may accept bets on sports events, sports leagues, and bet types appearing on the list.

(3) An online sports betting operator may submit a written request to the Division seeking additional sporting events, sports leagues, or bet types to be added to the list maintained pursuant to this section.

(b) The Division shall consider the following factors when making determinations on requests submitted pursuant to paragraph (3) of subdivision (a):

(1) Whether the outcome of the sporting event or bet type can be verified.

(2) Whether the outcome of the sporting event may be affected by any bet type placed.

(3) Whether the sporting event is conducted in conformity with all applicable laws.

(c) No bets shall be authorized or allowed upon any of the following with respect to sporting events:

(1) The occurrence of injuries or penalties.

(2) The outcome of player discipline rulings.

(3) The outcome of replay reviews.

(d)(1) The Division shall approve or deny a request made pursuant to paragraph (3) of subdivision (a) within five business days of receipt of the request.
(2) The Division shall make good faith efforts to issue a determination in advance of the next opportunity for bets to be offered or accepted on the sporting event, sports league, or bet type subject to the request if the online sports betting operator makes the request at least three business days in advance thereof. If the request is approved, the sporting event, sports league, or bet type shall be added without delay to the list maintained pursuant to paragraph (1) of subdivision (a).

(3) If the Division does not communicate its determination to the online sports betting operator within five business days of receipt of the request, then both of the following shall apply:

(A) The online sports betting operator shall be permitted to offer betting on the next occurrence of the sporting event, sports league, or bet type after expiration of the five-business day deadline.

(B) The Division shall add without delay the sporting event, sports league, or bet type to the list maintained pursuant to paragraph (1) of subdivision (a).

(e) If a sports event or sports league has been generally authorized by the Division pursuant to this section, an online sports betting operator may accept bets on all sports events of the kind generally conducted by that sports league.


19762. Online Sports Betting Authorized.

(a) Online sports betting is hereby authorized to be offered, conducted, and/or operated in this State consistent with this chapter and Section 19.5 of Article IV of the California Constitution.

(b) Online sports betting shall only be offered, conducted, and/or operated in this State pursuant to an online sports betting operator license issued by the Division to a gaming tribe, an online sports betting platform provider with an operating agreement with a gaming tribe, or a qualified gaming entity with a market access agreement with a gaming tribe.
(c) No person may engage in any activity in connection with online sports betting in this State unless all necessary licenses or temporary licenses have been obtained pursuant to this chapter and the rules and regulations of the Division.

(d) An online sports betting operator license issued pursuant to this chapter does not entitle the license holder to accept any bet from a person who is physically present on Indian lands when the bet is made or initiated.


(a) A license shall be obtained by each online sports betting operator as provided in this chapter.

(b)(1) An online sports betting operator license may be applied for in the following ways:

(A) By a gaming tribe (a “tribal application”). Under a tribal application, the gaming tribe is the operator applicant. If the application is approved, the online sports betting operator license shall be issued to the gaming tribe (a “tribal operator license”).

(B) By a qualified gaming entity (a “qualified gaming entity application”). Under a qualified gaming entity application, the qualified gaming entity shall be the operator applicant. If the application is approved, the online sports betting operator license shall be issued to the qualified gaming entity (a “qualified gaming entity operator license”).

(C) By an online sports betting platform provider (an “online sports betting platform provider application”). Under an online sports betting platform provider application, the online sports betting platform provider shall be the operator applicant. If the application is approved, the online sports betting operator license shall be issued to the online sports betting platform provider (an “online sports betting platform provider operator license”).

(2) No person may obtain an online sports betting operator license pursuant to this section except a gaming tribe, a qualified gaming entity, or an online sports betting platform provider.
(3) Beyond the express requirements of this chapter, the Division may specify additional information required to be submitted as part of a tribal application, qualified gaming entity application, or an online sports betting platform provider application.

(c)(1) An operator applicant shall submit an application to the Division in the manner prescribed by the Division together with an application fee of one hundred fifty thousand dollars ($150,000).

(2)(A) The application fee in paragraph (1) shall cover up to two thousand (2,000) hours of Division professional staff time expended on matters directly related to the application.

(B) The operator applicant shall reimburse the Division for any additional hours required to process the application at the hourly rate for human resource services used by the Contracted Human Resources Unit within the Department of General Services Office of Human Resources, as set forth in the Department of General Services Price Book.

(3) In no event shall the combined total amount paid by an operator applicant pursuant to this subdivision exceed two hundred fifty thousand dollars ($250,000).

(d) In determining whether to approve an operator applicant’s application to become an online sports betting operator, the Division may request from the operator applicant, and consider, any or all of the following information:

(1) Whether the operator applicant has adequate capitalization and the financial ability to responsibly pay its secured and unsecured debts in accordance with its financing agreements and other contractual obligations.

(2) Whether the operator applicant has a history of material noncompliance with sports betting licensing requirements of this State, any other U.S. state or territory, or the United States, where the noncompliance resulted in a material enforcement action by the government agency with authority over the operator applicant.

(3) Whether the operator applicant or any key person of the operator applicant has been indicted for, charged with, arrested for, or convicted of, pleaded guilty or nolo contendere to, or
forfeited bail concerning, any misdemeanor or felony criminal offense under the laws of this State, any other U.S. state or territory, or the United States, except for traffic violations.

(4) Whether the operator applicant has filed, or had filed against it, a proceeding for bankruptcy or has ever been involved in any formal process to adjust, defer, suspend, or otherwise work out the payment of any debt.

(5) Whether the operator applicant has a history of material noncompliance with any regulatory requirements of this State, any other U.S. state or territory, or the United States, where the noncompliance resulted in material enforcement actions by the government agency with authority over the operator applicant.

(e) Upon approval by the Division, and payment of an initial license fee as provided in subdivision (f), the Division shall issue the online sports betting operator license, which shall expire five years from the date of issuance.

(f) Upon notice by the Division that it has approved the application for an online sports betting operator license, and before issuance of the license, the operator applicant shall pay an initial license fee to the Division as follows:

(1) The initial fee for a tribal operator license or online sports betting platform provider operator license shall be ten million dollars ($10,000,000).

(2) The initial fee for a qualified gaming entity operator license shall be one hundred million dollars ($100,000,000).

(g) As part of an operator applicant’s application, the Division may identify and require applications from specified key persons of the operator applicant as provided in Article 7.

(h)(1) An online sports betting operator license authorizes the holder of the license to operate one online sports betting platform, subject to the branding provisions set forth in paragraph (2) of subdivision (i).

(2)(A) A person holding an online sports betting operator license may act as an online sports betting platform provider, provided that such person has:
(i) Submitted the documentation required by Section 19767 for online sports betting platform providers.

(ii) Paid an initial license fee pursuant to paragraph (1) of subdivision (f) for each gaming tribe for which it is an online sports betting platform provider.

(B) An online sports betting platform provider shall not provide any service described within the definition of “online sports betting platform provider” to any gaming tribe other than as provided in this subdivision.

(i)(1)(A) Where a gaming tribe is issued a tribal operator license, the gaming tribe shall operate the online sports betting platform only under the gaming tribe’s own name or, if the tribe became a gaming tribe on or before July 1, 2021, a trademark owned by the gaming tribe as of July 1, 2021.

(B) If a tribe becomes a gaming tribe after July 1, 2021, the gaming tribe shall operate any online sports betting platform only under the gaming tribe’s own name.

(2) Where a qualified gaming entity is issued a qualified gaming entity operator license, it may operate its online sports betting platform under one of the following names, chosen at the discretion of the qualified gaming entity:

(A) The name, trade name, licensed trademark, or assumed business name of the qualified gaming entity.

(B) The name, trade name, licensed trademark, or assumed business name of an affiliate of the qualified gaming entity.

(C) The name of the gaming tribe with which the qualified gaming entity has a market access agreement.

(D) If the tribe with which the qualified gaming entity has a market access agreement became a gaming tribe on or before July 1, 2021, a trademark owned by the gaming tribe as of July 1, 2021.
(E) Any combination of the names described in subparagraph (A) through subparagraph (D).

(3) Where an online sports betting platform provider is issued an online sports betting platform provider operator license, the online sports betting platform provider shall operate, or facilitate or support the operation of, the online sports betting platform only under a name permitted under subparagraph (A) or subparagraph (B) of paragraph (1) of this subdivision for use by the gaming tribe to which the online sports betting platform provider is providing services pursuant to an operating agreement.


(a) The Division shall issue a temporary online sports betting operator license to any operator applicant if all of the following conditions are satisfied:

(1) The operator applicant has submitted an application pursuant to Section 19763.

(2) The operator applicant satisfies the conditions of paragraph (1) or paragraph (2) of subdivision (ii) of Section 19794.

(3) The operator applicant pays the initial license fee as set forth in subdivision (f) of Section 19763.

(b)(1) Within 30 days of receiving a request for a temporary license, the Division shall issue the temporary online sports betting operator license to an operator applicant that satisfies the requirements of subdivision (a). The temporary license shall expire two years from the date it is issued or on the date the Division issues a license to the operator applicant pursuant to Section 19763, whichever occurs first.

(2) A temporary license issued pursuant to this section entitles a person to immediately engage in all activities that may be undertaken by a person holding a license issued pursuant to Section 19763.

(c) If the Division fails to make a final determination on the application submitted pursuant to Section 19763 within the initial two-year period of temporary licensure, then the
temporary license shall be extended in two-year increments or until a final determination is made, whichever occurs first.


(a) If the Division imposes a testing requirement for online sports betting platforms, it shall accept either of the following test results for the online sports betting platform in lieu of a new test, if issued not more than 180 days before the date the relevant application is submitted pursuant to this article or Article 6:

(1) A satisfactory result issued by an independent testing laboratory, if the laboratory has been approved to conduct such testing by the Division or a U.S. state or territory.

(2) A satisfactory result issued by a U.S. state or territory.

(b) This section shall apply to online sports betting operators, including online sports betting platform providers, and online sports betting suppliers.


(a) The Division shall establish a process for an online sports betting operator to renew its license consistent with this section.

(b) When seeking to obtain a license renewal, an online sports betting operator shall submit to the Division both of the following:

(1) All documentation or information as the Division may require demonstrating that the online sports betting operator continues to meet the requirements of this chapter and the regulations of the Division.

(2) A renewal application fee of fifty thousand dollars ($50,000).

(c) If an online sports betting operator submits a renewal application to the Division at least 60 days prior to the expiration of the operator’s current license, then the Division shall make a determination on the renewal application prior to the expiration of the current license.
(d) The Division shall renew the online sports betting operator license for an additional five-year period unless the online sports betting operator’s renewal application demonstrates that it will be unable to satisfy all requirements of this chapter and regulations of the Division. Upon renewal of the license, the online sports betting operator shall pay a license renewal fee of one million dollars ($1,000,000) for a tribal operator license or online sports betting platform provider operator license and ten million dollars ($10,000,000) for a qualified gaming entity operator license.

19767. Documentation Requirements Relative to Gaming Tribes.

(a) Before conducting sports betting in this state pursuant to licenses issued under this article, the person holding a qualified gaming entity operator license or an online sports betting platform provider operator license shall submit copies of an agreement between the license holder and a gaming tribe as follows:

(b) The holder of a qualified gaming entity operator license shall submit to the Division a market access agreement, entered into between the qualified gaming entity and a gaming tribe, relative to the qualified gaming entity’s offering of online sports betting in this state. The terms of the market access agreement shall be determined solely by the parties to the agreement.

(c) The holder of an online sports betting platform provider operator license shall submit to the Division an operating agreement, entered into between the online sports betting platform provider and a gaming tribe. The purpose of the operating agreement is to specify the allocation of rights, responsibilities, and obligations between the online sports betting platform provider and the gaming tribe to which the platform provider is providing services.

(1) The operating agreement shall be binding on the parties. Once approved by the Division, material changes to the operating agreement shall not be made without the written approval of the Division. The Division shall issue its written response to any request for a material change to an operating agreement within 10 business days of the request.

(2) Matters that shall be specified in the operating agreement include, but are not limited to, the following:
(i) The name under which the online sports betting platform will be operated.

(ii) The profit-sharing allocation, if any, between the gaming tribe and the online sports betting platform provider.

(iii) Any other information required by the Division.

(d) The Division may adopt a model or template operating agreement to be used by online sports betting platform providers.


(a) Notwithstanding any contrary provision of law, an application submitted pursuant to this article or Article 6, and all documents, reports, and data submitted therewith, that contain proprietary information, trade secrets, financial information, or personal information about any person are exempt from disclosure under Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, or any successor law.

(b) When an application under this article requires a criminal background investigation for an individual, and the individual has submitted to a criminal background check in this State or any other U.S. state or territory in the previous 12 months, the individual shall not be required to submit to another criminal background check, or another submission of fingerprints, if the individual submits the results of the previous criminal background and a declaration under penalty of perjury attesting that there has been no change in the individual’s criminal history in the previous 12 months.

(c) The fees set forth in this article, Article 6, and Article 7 shall be adjusted decennially to reflect any increase in inflation as measured by the Consumer Price Index for All Urban Consumers (CPI-U). The Treasurer’s office shall calculate and publish the adjustments required by this subdivision.


(a) The Division shall condition the issuance, maintenance, and renewal of every tribal operator license upon the gaming tribe irrevocably consenting to all of the following:

(1) Payment of the surcharge set forth in Section 19775 of this chapter, and any subsequent amendments thereto.

(2) Payment of penalties for any violations of this chapter as set forth in Section 19781 and all other fees imposed pursuant to this chapter or regulations adopted thereunder.

(3) Compliance with all state laws governing online sports betting set forth in this chapter, and all regulations, rules, orders, and interpretations adopted or enforced pursuant to this chapter.

(4) Submission to the jurisdiction of the courts of this State, and any other appropriate state or federal court having jurisdiction and venue, for the limited purpose of enforcing this chapter, including all of the following:

(A) An express limited waiver of sovereign immunity, and any right to assert sovereign immunity, against this State or the Division.

(B) Consenting to be sued by the State of California or the Division in California state courts, and any other appropriate state or federal court having jurisdiction and venue, and to be bound by the judgments thereof, with respect to the limited purposes of paying the surcharge described in paragraph (1), paying penalties and fees described in paragraph (2), and complying with the laws, regulations, rules, orders, and interpretations described in paragraph (3).

(C) An express waiver of exhaustion of tribal remedies.

(5) Submission to the jurisdiction of the Division, including but not limited to inspection and audit of the gaming tribe’s online sports betting operations and records to ensure the protection of minors and consumers, protection of sports integrity, and full and accurate payment of the surcharge set forth in Section 19775 of this chapter.

(b) The Division shall not issue or renew a tribal operator license unless the gaming tribe complies with this section.
19770. Limitation on State Jurisdiction Over Gaming Tribes.

(a) Notwithstanding anything to the contrary in this chapter, with respect to gaming tribes, this chapter regulates only online sports betting by persons physically present anywhere in this State but outside of Indian lands.

(b) This chapter does not extend State of California jurisdiction to the making or placing of bets by persons who are physically present on Indian lands at the time a bet is made or initiated.

(c) This chapter does not create or extend any State of California jurisdiction or regulatory authority over any other gaming operations of a federally recognized Indian tribe.

ARTICLE 6. Online Sports Betting Suppliers.

19771. Online Sports Betting Supplier Licenses.

(a) Online sports betting suppliers shall obtain a license pursuant to this article.

(b)(1) Supplier applicants shall submit an online sports betting supplier application to the Division in the manner prescribed by the Division together with an application fee of twenty-five thousand dollars ($25,000).

(2)(A) The application fee in paragraph (1) shall cover up to three hundred thirty-three (333) hours of Division professional staff time expended on matters directly related to the application.

(B) The supplier applicant shall reimburse the Division for any additional hours required to process the application at the hourly rate for human resource services used by the Contracted Human Resources Unit within the Department of General Services Office of Human Resources, as set forth in the Department of General Services Price Book.

(3) In no event shall the combined total amount paid by a supplier applicant pursuant to this subdivision exceed forty thousand dollars ($40,000).
(c)(1) Upon notice by the Division that it has approved the application for an online sports betting supplier license, and before issuance of the license, the supplier applicant shall pay an initial license fee of one hundred thousand dollars ($100,000) to the Division.

(2) An online sports betting supplier license issued pursuant to this section is valid for five years from the date of issuance.

(d) A licensed online sports betting operator may perform any and all functions of an online sports betting supplier without obtaining a separate online sports betting supplier license.

19772. Temporary Online Sports Betting Supplier Licenses.

(a) The Division shall issue a temporary online sports betting supplier license to any supplier applicant that has submitted an application pursuant to Section 19771 and has been licensed or similarly authorized to provide substantially the same services for online sports betting in at least two other U.S. states or territories.

(b)(1) Within 30 days of receiving a request for a temporary license, the Division shall issue the temporary online sports betting supplier license to a qualified supplier applicant. The temporary license shall expire two years from the date it is issued or on the date the Division issues a license to the supplier applicant pursuant to Section 19771, whichever occurs first.

(2) A temporary license issued pursuant to this section entitles a person to immediately engage in all activities that may be undertaken by a person holding a license issued pursuant to Section 19771.

(c) If the Division fails to make a final determination on the application submitted pursuant to Section 19771 within the initial two-year period of temporary licensure, then the temporary license shall be extended in two-year increments or until a final determination is made, whichever occurs first.

19773. Renewal of Online Sports Betting Supplier Licenses.

(a) The Division shall establish a process for licensed online sports betting suppliers to renew their licenses consistent with this section.
(b) When seeking to obtain a license renewal, an online sports betting supplier shall submit to the Division both of the following:

(1) All documentation or information as the Division may require demonstrating that the online sports betting supplier continues to meet the requirements of this chapter and the regulations of the Division.

(2) A renewal application fee of ten thousand dollars ($10,000).

(c) If the online sports betting supplier submits a renewal application to the Division at least 60 days prior to the expiration of the supplier’s current license, then the Division shall make a determination on the renewal application prior to the expiration of the current license.

(d) The Division shall renew the online sports betting supplier license for an additional five-year period unless the online sports betting supplier’s renewal application demonstrates that it will be unable to satisfy all requirements of this chapter and regulations of the Division. Upon renewal of the license, the online sports betting supplier shall pay a license renewal fee of fifty thousand dollars ($50,000).

ARTICLE 7. Online Sports Betting Key Persons.

19774. Key Person Licenses.

(a)(1) The Division may require a key person of an online sports betting operator, operator applicant, online sports betting supplier, or supplier applicant to submit an application and obtain a license pursuant to this article.

(2) When key persons are required to submit applications pursuant to this article, the Division shall utilize a multijurisdictional licensing form used by other U.S. states and territories wherever possible. The Director shall obtain advice from the Committee regarding the most appropriate multijurisdictional licensing form to be used.

(b)(1) The Division shall issue a temporary key person license if the person holds a comparable license or similar authorization issued by another U.S. state or territory where online sports betting is legal, including authorizations where a comprehensive suitability review of the
person was satisfactorily conducted in the course of licensing another entity but no formal license or similar document was issued to the person.

(2)(A) The Division may accept a comparable license or similar authorization described in paragraph (1) in full satisfaction of the requirement to obtain a key person license pursuant to this article. If the Division refuses to accept a comparable license or similar authorization from another U.S. state or territory, it shall provide written justification for its refusal to the person seeking licensure.

(B) Where the Division refuses to accept a comparable license or similar authorization, the person seeking licensure shall have the right to appeal the Division’s decision to the Attorney General.

(c) For persons who do not qualify for a temporary key person license pursuant to subdivision (b), the Division may issue a temporary key person license upon satisfactory completion of a criminal background check.

(d) The Division may issue an online sports betting operator license or online sports betting supplier license, or a temporary version of those licenses, while a key person license application is still pending and undergoing review.

(e)(1) The Division may impose a key person application fee of up to two thousand four hundred dollars ($2,400).

(2)(A) The application fee in paragraph (1) shall cover up to one hundred (100) hours of Division professional staff time expended on matters directly related to the application.

(B) The key person applicant shall reimburse the Division for any additional hours required to process the application at the hourly rate for human resource services used by the Contracted Human Resources Unit within the Department of General Services Office of Human Resources, as set forth in the Department of General Services Price Book.

(3) In no event shall the combined total amount paid by a key person applicant pursuant to this subdivision exceed ten thousand dollars ($10,000).
(f) Prior to issuance of a key person license, the key person shall pay a license fee of seven hundred fifty dollars ($750).

(g) A key person license shall be valid for not less than five (5) years. The Division may impose a renewal application fee of not more than five hundred dollars ($500), and a renewal license fee of not more than seven hundred fifty dollars ($750).

(h) The Division shall not require licensing of any persons who are not key persons, but may require criminal background checks of persons who are not key persons where good cause exists to do so.

ARTICLE 8. Online Sports Betting Surcharges.


(a) There is hereby imposed upon each online sports betting operator a surcharge equal to ten percent (10%) of the online sports betting operator’s adjusted gross online sports betting receipts derived from the offering, conduct, and/or operation of online sports betting in this State. The accrual method of accounting shall be used for purposes of calculating the amount of surcharge owed by an online sports betting operator pursuant to this section.

(b)(1) The surcharge imposed pursuant to this section is due and payable to the Division in monthly installments on or before the last calendar day of the month following the calendar month in which the adjusted gross online sports betting receipts were received.

(2) An online sports betting operator shall complete and submit a return for the preceding month by electronic communication to the Division, on or before the last calendar day of each month, in the form prescribed by the Division. The return shall provide all of the following:

(A) The sports betting operator’s total gross receipts and adjusted gross online sports betting receipts from offering, conducting, and/or operating online sports betting during the month.

(B) The surcharge amount for which the online sports betting operator is liable.
(C) Any additional information necessary in the computation and collection of the surcharge on adjusted gross online sports betting receipts required by the Division.

(3) The surcharge amount shown to be due shall be remitted by electronic funds transfer simultaneously with the filing of the return.

(e)(1) An online sports betting operator's adjusted gross online sports betting receipts for a month is a negative number when the operator's total gross receipts taken in from the bets placed by patrons is less than the sum of all of the following:

(A) All winnings paid out to patrons who placed bets on the online sports betting operator's platform.

(B) All voided bets.

(C) All excise taxes paid pursuant to federal law.

(D) The value of all merchandise or property awarded as a prize to bettors.

(2)(A) When an online sports betting operator's adjusted gross online sports betting receipts for a month is a negative number pursuant to the formula set forth in paragraph (1), the Division shall allow the operator to carry over the negative amount within twelve months and deduct such amount from its surcharge liability for that month. The Division may require the negative amount to be spread across multiple months within the twelve-month period.

(B) The negative amount of adjusted gross receipts may not be carried back to an earlier month and moneys previously paid to the Division shall not be refunded, except if the online sports betting operator surrenders its license and the online sports betting operator's last return reported negative adjusted gross online sports betting receipts.

(d)(1)(A) An online sports betting operator may take a credit against the surcharge described in subdivision (a) equal to twenty percent (20%) of the initial license fee paid pursuant to subdivision (f) of Section 19763 in each of the first five calendar years following the issuance of an initial online sports betting operator license or temporary license.
(B) If an online sports betting operator renews its license, the sum of any credit not applied in each of the first five calendar years following the issuance of an initial online sports betting operator license or temporary license may be carried forward into the sixth and subsequent calendar years until the credit is exhausted.

(2)(A) An online sports betting operator may take a credit against the surcharge described in subdivision (a) equal to twenty percent (20%) of the renewal license fee paid pursuant to subdivision (d) Section 19766, plus any credit carried over pursuant to paragraph (1), in each of the five calendar years following renewal of an online sports betting operator license.

(B) If an online sports betting operator renews its license more than once, the sum of any credit not applied in each of the first five calendar years following its previous renewal of an online sports betting license may be carried forward into the sixth and subsequent calendar years until it is exhausted.

(3) In no event shall the amount of credit applied pursuant to this subdivision reduce below zero the amount of surcharge owed for any calendar year.

(4) The credit described in this subdivision can be taken against one or more monthly installments made pursuant to subdivision (b), so long as the total amount of credit taken does not exceed the limits set forth in paragraph (1) and paragraph (2).

(e) The following shall be promptly transferred from the Division to the Controller for deposit into the Fund:

(1) Proceeds of the surcharge imposed pursuant to this section.

(2) The fees and costs required by subdivisions (e) and (f) of Section 19763, subdivisions (b) and (d) of Section 19766, subdivisions (b) and (c) of Section 19771, and subdivisions (b) and (d) of Section 19773.

(3) Any amounts paid pursuant to of Section 19774.

(f) If requested by the Division, an online sports betting operator shall agree to engage an independent firm of certified public accountants approved by the Division to perform an annual
audit in order to ensure that the surcharge imposed by this section is being accurately calculated and paid.

19776. **Surcharge on Bets Made Through Illegal or Tax-Exempt Online Sports Betting Platforms.**

(a)(1) A tax is hereby imposed upon a bettor for the privilege of placing or making, while physically present in this State but outside of Indian lands, a bet on or through an illegal or tax-exempt online sports betting platform. The rate of tax shall be fifteen percent (15%) of the dollar amount bet on or through the illegal or tax-exempt online sports betting platform.

(2) The People of the State of California hereby declare that the character of the tax imposed by this section, based upon its incidents and from its natural and legal effect, is an obligation upon the person placing or making the bet at the location where the individual is physically present when the bet is made or initiated, and not an obligation upon the owner or operator of the illegal or tax-exempt online sports betting platform.

(b) The Division may adopt any regulation and take any action necessary or convenient for the implementation and enforcement of this section. The regulations may include, but are not limited to, all of the following:

(1) Requiring individuals placing or making a bet on or through an illegal or tax-exempt online sports betting platform to register with the Division prior to making or placing such a bet.

(2) Requiring owners, operators, or agents of an illegal or tax-exempt online sports betting platform to disclose the names of persons who make or place a bet on or through the illegal or tax-exempt online sports betting platform while physically present in this State but outside of Indian lands.

(3)(A) Taking any and all legal actions against an owner, operator, business partner, or agent of an illegal or tax-exempt online sports betting platform that refuses to disclose names of bettors pursuant to paragraph (2), in order to compel the disclosure of the names sought.
(B) Actions may include blocking access to the Internet website or mobile application of the illegal or tax-exempt online sports betting platform from any and all locations in California but outside of Indian lands.

(4) Contracting with the Department of Tax and Fee Administration for assistance with administration and collection of the tax.

(5) Establishing deadlines for the payment and collection of the tax. The Division may require the tax to be paid at the time the bet is made or initiated, or on a daily, weekly, monthly, quarterly, semi-annual, or annual basis, or any combination thereof.

(6) Publishing a list of known illegal or tax-exempt online sports betting platforms.

(c) In addition to any other penalties, there is hereby established a civil penalty of one thousand dollars ($1,000) per day that any tax owed pursuant to this section is past due under regulations adopted by the Division. Proceeds of any penalties incurred under this subdivision shall be deposited into the Fund.

(d) Proceeds from the tax imposed by this section shall be deposited into the Fund.

(e) The tax imposed pursuant to this section shall not apply to, or be imposed upon, any person for making or placing a bet of any kind if the person is physically present upon Indian lands at the time the bet is made or initiated.

(f) For purposes of this section, an “illegal or tax-exempt online sports betting platform” is an online sports betting platform that is any of the following:

(1) Owned by a person who is exempt from the surcharge imposed by Section 19775.

(2) Owned or operated by a person who has not submitted to the jurisdiction and regulatory control of the Division.

(3) Owned or operated by a person who does not possess the licenses required by this chapter for the offering, conduct, and/or operation of online sports betting in this State but outside of Indian lands.
ARTICLE 9. Division of Online Sports Betting Control.

19777. Division of Online Sports Betting Control Established.

(a) Notwithstanding any contrary provision of law, including but not limited to Part 6 of Division 3 of Title 2 of the Government Code, there is hereby established within the Department of Justice a Division of Online Sports Betting Control.

(b) The Division shall continue in existence on and after the effective date of this chapter, and shall remain separate and independent from all other divisions, bureaus, branches, sections, and units within the Office of the Attorney General and the Department of Justice.

(c) The Attorney General shall appoint a Director of the Division, who shall lead the Division in the performance of its duties. The Director shall serve at the pleasure of the Attorney General.

(d) Consistent with applicable civil service laws, the Attorney General shall retain, appoint, or assign employees to the Division sufficient to carry out its duties as set forth in this chapter and implementing regulations. The Attorney General shall consult with the Director regarding the number and qualifications of employees necessary for the Division to carry out its duties. The Division may contract for services that cannot be provided by employees.


(a) The Division is vested with exclusive power, authority, and jurisdiction to implement and enforce this chapter and supervise the offering, conduct, and/or operation of online sports betting in the State of California but outside of Indian lands.

(b) The Division shall do all of the following:

(1) Exercise all of the powers of the Office of the Attorney General and the Department of Justice in the performance of its duties.

(2)(A) Adopt, amend, and rescind regulations necessary to carry out the purposes and provisions of this chapter.
(B) The Division shall consult with, and obtain written input from, the Committee prior to proposing, adopting, amending, or rescinding any regulation or emergency regulation.

(C) The Division shall examine the regulations adopted in other U.S. states or territories where online sports betting is lawfully conducted and shall, as far as practicable, adopt a similar regulatory framework. The Division may enlist the assistance of the Committee in identifying and examining the relevant regulations adopted in other U.S. states or territories.

(3) Establish and maintain an office for the transaction of its business in Sacramento.

(c)(1) Included within the Division’s general power to adopt, amend, and rescind regulations is the power to adopt regulations relating to (A) the acceptance of bets on a sports event, or a series of sports events; (B) the types of records which shall be kept; (C) the protections for patrons placing bets; and (D) the promotion of social responsibility, responsible gaming, and inclusion of the statement, “If you or someone you know has a gambling problem and wants help, call 1-800 GAMBLER,” or similar message on an online sports betting platform.

(2) Paragraph (1) is merely a partial description of the regulatory powers of the Division. Nothing in paragraph (1) shall be interpreted as any limitation whatsoever on the powers of the Division.

(d) The Division shall not adopt or enforce any rule or regulation that either:

(1) Requires an online sports betting operator to maintain any hold, whether expressed as a percentage of bets, specific amounts, or otherwise.

(2) Requires that an online sports betting operator must report or display the handle or amount bet on individual sports events or bet types.

(e) The Division shall only deny, limit, condition, or restrict a license, permit, registration, or approval for good cause, subject to due process.

(f) In addition to its other powers, the Division may take any of the following actions:
(1) Subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of any books, papers, records, or other items material to the performance of the Division's duties or exercise of its powers, including, but not limited to, its power to audit a person's compliance with this chapter.

(2) Institute and defend civil actions in any court to restrain or halt a violation of this chapter.

(3) Initiate disciplinary action for violations of this chapter.

(4) Inspect equipment, supplies, and systems of any online sports betting operator or online sports betting supplier.

(5) Require any person to apply for a license, permit, registration, or approval as specified in this chapter or in any regulation adopted pursuant to this chapter. The Division may limit, condition, or restrict any license, permit, registration, or approval.

19779. Delegation of Power to the Director.

(a) All power necessary to carry out the administrative and executive functions of the Division is hereby delegated to the Director. These powers include, but are not limited to, all of the following:

(1) The issuance and renewal of licenses.

(2) The conduct of investigations, inspections, and audits.

(3) The civil prosecution and settlement of violations of this chapter.

(4) The approval of forms of betting, types of sports events, and sports leagues.

(5) The granting of requests and waivers, answering inquiries, issuing interpretations, and otherwise taking all actions that are reasonably requested by applicants and licensees in furtherance of, and consistent with, the efficient administration and enforcement of this chapter.
(b) An applicant or licensee that receives an adverse determination, denial, or rejection from the Director may appeal the adverse determination, denial, or rejection to the Attorney General. The Attorney General shall independently review appeals brought pursuant to this subdivision de novo.

19780. Confidentiality.

(a) The Division shall maintain a file of all applications for licenses under this chapter. The Division shall maintain a record of all actions taken with respect to those applications.

(b) Except as necessary for the administration of this chapter, no person having obtained access to confidential records or information in the performance of duties pursuant to this chapter, shall knowingly disclose or furnish the records or information, or any part thereof, to any person who is not authorized by law to receive it. A violation of this subdivision is an infraction and may subject the violator to civil liability, including damages, and disciplinary action.

(c) Notwithstanding subdivision (k) of Section 1798.24 of the Civil Code, a court shall not compel disclosure of personal information in the possession of the Division to any person in any civil proceeding wherein the Division or Attorney General is not a party, except for good cause and upon a showing that the information cannot otherwise be obtained. This section shall not authorize the disclosure of personal information that is otherwise exempt from disclosure.

(d) Disclosures that are required to be made to the Division as necessary for the administration of this Chapter shall not waive attorney-client privilege held by the person or affiliate of a person required to make such a disclosure.

19781. Fines and Penalties for Violations of Chapter.

(a) The Division may impose fines, place licensees on probation, and revoke licenses in response to violations of this chapter, subject to due process. The Division may impose fines upon any person holding, or required to hold, a license, permit, registration, or approval under this chapter or the regulations adopted pursuant to this chapter.
(b) The Division has the sole and exclusive power to enforce this chapter and impose fines and other penalties for violations of this chapter.

(c) Maximum fines for violations of this chapter shall be as follows:

(1) For an online sports betting operator or online sports betting supplier:
   (A) $15,000 where the violation involves a person under 21 years of age.
   (B) $10,000 for all other violations.

(2) For a key person:
   (A) $7,500 where the violation involves a person under 21 years of age.
   (B) $5,000 for all other violations.

(3) For all other persons:
   (A) $5,000 where the violation involves a person under 21 years of age.
   (B) $2,500 for all other violations.

(d) Notwithstanding subdivision (c), the maximum fine for multiple violations of this chapter arising out of the same transaction, occurrence, or set of circumstances shall be as follows:

(1) $100,000 for an online sports betting operator or online sports betting supplier.

(2) $50,000 for a key person.

(3) $25,000 for all other persons.

(e)(1) Nothing in this chapter shall be subject to, or construed to create, a private right of action.

(2) Article 18 (commencing with Section 19990) of Chapter 5 of Division 8 shall not apply to any conduct made lawful by this chapter or regulations adopted thereunder.
19782. Emergency Regulations.

(a) The Division shall adopt emergency regulations sufficient to permit online sports betting to be offered, conducted, and/or operated in this State but outside of Indian lands. Emergency regulations shall be adopted in accordance with the schedule set forth in Section 19791.

(b) Any emergency regulation adopted pursuant to this chapter shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding any other contrary provision of law, an emergency regulation adopted by the Division shall remain in effect until a permanent replacement regulation has been adopted.

19783. Reporting Violations to the Division.

Any person or entity holding a license, permit, or approval under this chapter shall report known violations of this chapter or other applicable law, or regulations adopted pursuant to this chapter, to the Division. Violations shall be reported with commercially reasonable promptness, which shall include adequate time to conduct an internal investigation concerning any potential violation.

19784. Division Start-Up Loan.

(a) Notwithstanding any other contrary provision of law, a loan in the amount of up to thirty million dollars ($30,000,000) is hereby made from the General Fund to the Attorney General for the purposes of establishing the Division, hiring a Director and other Division employees, securing office space for the Division, adopting regulations, reviewing and processing applications, and administering this chapter.

(b) The loan shall be repaid within five years. The Legislature shall appropriate moneys in the Fund to repay the loan.
(c) The Controller and all other responsible state officials shall take all actions necessary to effectuate the loan required by this section.

ARTICLE 10. **Online Sports Betting Independent Advisory Committee.**

**19785. Online Sports Betting Independent Advisory Committee Established.**

(a) An Online Sports Betting Independent Advisory Committee is hereby established within the Division.

(b) No individual holding federal, state, tribal, or local elected or appointed office and no officer or official of any political party is eligible for appointment to the Committee.

(c) Nine members of the Committee constitute a quorum for purposes of voting and conducting business of the Committee.

(d) The Committee shall elect a chairperson from among its membership. The chairperson shall serve in that capacity for two years and is eligible for reelection. The chairperson shall preside at all meetings and shall have all the powers and privileges of other Committee members.

(e) The Committee shall meet not less than quarterly, and may hold additional regular and special meetings at the call of the Committee or the chairperson.

(f) At least two employees of the Division shall be assigned full-time to staffing and supporting the Committee.

**19786. Committee Membership.**

(a) The Committee shall be composed of seventeen members appointed as follows:

1. The Governor shall appoint four members as follows: one representative with expertise in law enforcement or public health, one representative of the general public, one representative of gaming tribes, and one representative of qualified gaming entities.
(2) The Assembly Speaker shall appoint three members as follows: one representative of the general public, one representative of gaming tribes, and one representative of qualified gaming entities.

(3) The Senate President Pro Tempore shall appoint three members as follows: one representative of the general public, one representative of gaming tribes, and one representative of qualified gaming entities.

(4) The Lieutenant Governor shall appoint two members as follows: one representative with expertise in responsible gaming, and one representative of gaming tribes or qualified gaming entities.

(5) The Controller shall appoint two members as follows: one representative with expertise in accounting, and one representative of gaming tribes.

(6) The Treasurer shall appoint two members as follows: one representative with expertise in public finance, and one representative of qualified gaming entities.

(7) The Secretary of State shall appoint one member with expertise in technology or privacy.

(b) No organization, including but not limited to a gaming tribe, qualified gaming entity, law enforcement organization, or public health organization, shall have more than one individual from their organization appointed to the Committee at any given time.

(c) The Attorney General, or the Attorney General's representative, shall serve as a non-voting ex officio member of the Committee.

(d) Each member of the Committee shall either be a citizen and resident of the United States or satisfy the requirements of subdivision (b) of Section 1020 of the Government Code.

19787. Committee Member Terms.

(a) Each appointing authority described in Section 19786 shall make their initial appointments to the Committee in accordance with the schedule set forth in Section 19791.
(b) The term of initial appointees to the Committee shall begin on the forty-fifth day after the effective date of this chapter. The terms of initial appointees to the Committee shall be as follows:

(1) The Governor’s and Lieutenant Governor’s initial appointees shall serve for a term of four years.

(2) The Assembly Speaker’s and Senate President Pro Tempore’s initial appointees shall serve for a term of three years.

(3) The Controller’s, Treasurer’s, and Secretary of State’s initial appointees shall serve for a term of two years.

(c) After the initial terms, the term of each appointed or reappointed Committee member shall be four years. Each member of the Committee shall serve until a successor is appointed.

(d) A member of the Committee may be removed by the appointing authority for malfeasance in office or neglect of duty. No member shall be removed unless the reasons for removal are presented in writing to the member.

(e)(1) Within 10 days of the changed circumstance, a member of the Committee appointed to represent a specific expertise, organization, or type of entity shall notify in writing their appointing authority if they no longer possess or represent that specific expertise, organization, or type of entity, or are otherwise unable to continue serving as a member of the Committee.

(2) Upon receipt of the written notice by the appointing authority, the member’s position on the Committee shall be deemed vacant. Within 30 days of receipt of the written notice, the appointing authority shall appoint a successor to serve the remainder of the former member’s term. Upon expiration of the unexpired term, the successor may be appointed to a full term.

19788. Duties of the Committee.

(a) The Committee shall advise and make recommendations to the Division and Director with respect to implementing this chapter. The Committee shall advise and make
recommendations upon any aspect of implementing this chapter, including but not limited to, the following:

(1) Technologies and other measures that can be employed to prevent persons under 21 years of age from placing bets.

(2) Best online sports betting practices utilized in other U.S. states and territories.

(3) Options consistent with this chapter that will responsibly maximize the amount of revenues paid into the Fund.

(4) Administrative and technical support guidance to the Division with respect to online sports betting.

(5) Recommendations on new regulations that should be adopted, and existing regulations that should be amended, updated, or rescinded.

(b) The Committee is authorized, but not limited, to do any of the following:

(1) Undertake investigations or studies.

(2) Issue written reports.

(3) Post any report or recommendation on the Division’s Internet website under the Committee’s own link thereon.

19789. Compensation.

(a) Each Committee member, except ex officio members, shall be entitled to one hundred fifty dollars ($150) per diem. Per diem shall be paid to Committee members for each day spent in actual attendance at, or in traveling to and from, meetings of the Committee, or on special assignment for the Committee as approved by the Committee chairperson and the Director.
(b) No member of the Committee shall receive per diem for more than 40 days in a calendar year.

(c) Committee members shall receive the necessary traveling expenses and meal allowances, as approved by the Director.

(d) The per diem and reimbursement authorized in this section shall be wholly defrayed from moneys in the Fund.

ARTICLE 11. Amendment, Effective Date, and Commencement of Online Sports Betting.

19790. Amendment.

(a) The People of the State of California hereby declare as follows:

(1) Under subdivision (c) of Section 10 of Article II of the California Constitution, and as described in People v Kelly (2010) 47 Cal.4th 1008, the Legislature lacks power to make any amendments to an initiative statute without subsequent voter approval, unless specifically authorized by the People to make amendments without voter approval.

(2) Under subdivision (c) of Section 10 of Article II of the California Constitution, and as described in Amwest Surety Insurance Company v. Wilson (1995) 11 Cal.4th 1243, where the People do authorize the Legislature to amend an initiative statute, the People have power to attach conditions to the authorization.

(b)(1) Except as provided in paragraph (2), after the effective date of this chapter, the Legislature may amend this chapter by a statute passed in each house of the Legislature by rollcall vote entered into the journal, five-sixths of the membership concurred, provided that the statute is consistent with, and furthers the purpose of, this chapter. No bill seeking to amend this chapter after the effective date of this chapter may be passed or ultimately become a statute unless the bill has been printed and distributed to members, and published on the Internet, in its final form, for at least 15 business days prior to its passage in either house of the Legislature.

(2) Notwithstanding paragraph (1), the Legislature may amend the percentage allocation of moneys between the California Solutions to Homelessness and Mental Health Support...
Account and the Tribal Economic Development Account set forth in subdivision (d), and paragraph (2) of subdivision (e), of Section 19750 by a statute passed in each house of the Legislature by rolcall vote entered into the journal, two-thirds of the membership concurring.

(c) No statute enacted after October 1, 2021, but prior to the effective date of this chapter, that would constitute an amendment of this chapter, shall be operative after the effective date of this chapter unless the statute was passed in accordance with the requirements of subdivision (b).

(d) The purposes of this chapter are described in Section 2 of the California Solutions to Homelessness and Mental Health Support Act.

19791. Effective Date and Commencement of Online Sports Betting.

(a) This chapter shall take effect on the next January 1 following its approval by the People of the State of California.

(b) Not later than 30 days after the effective date of this chapter, all initial appointments to the Committee shall be made.

(c) Within 120 days after the effective date of this chapter, the Division shall publish proposed emergency regulations sufficient for implementing this chapter, including but not necessarily limited to, application forms for licenses and submissions authorized by Articles 4, 5, 6, and 7. The Division shall invite and consider comments on the proposed emergency regulations from the public and the Committee.

(d) Within 150 days after the effective date of this chapter, the Division shall adopt final emergency regulations implementing this chapter, including application forms as described in subdivision (c).

(e) Within 160 days after the effective date of this chapter, the Division shall begin accepting license applications from operator applicants, supplier applicants, key persons, and for temporary licenses. The Division shall make a determination on an application within 60 days of receipt thereof.
(f)(1) Within 240 days after the effective date of this chapter, the Division shall permit online sports betting operators to commence offering, conducting, and/or operating online sports betting in this State as provided in this chapter.

(2) All operator applicants that have submitted an application pursuant to Section 19763 within 30 days of the adoption of final emergency regulations pursuant to subdivision (d) shall be given an equal opportunity to first commence offering, conducting, and/or operating online sports betting in this State on the same day.

(3) All operator applicants that have submitted an application pursuant to both Section 19763 and Section 19764 within 30 days of the adoption of final emergency regulations pursuant to subdivision (d) shall be given an equal opportunity to first commence offering, conducting, and/or operating online sports betting in this State on the same day. Operator applicants described in this paragraph may be permitted to first commence offering, conducting, and/or operating online sports betting in this State before operator applicants described in paragraph (2).

ARTICLE 12. Trade Secrets and Personal and Proprietary Information.

19792. Trade Secrets and Proprietary Information.

(a) Any submissions to the Division pursuant to this chapter, and all documents, reports, and data submitted therewith, that contain proprietary information, trade secrets, financial information, or personal information about any person or entity are not public records subject to disclosure for purposes of Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code or any other state law.

(b) Submissions described in subdivision (a) shall be treated by the Division as confidential records and shall not be publicly disclosed or disseminated unless required by an order of a court of competent jurisdiction.

19793. Personal Information and Compliance with State Law.

(a) The collection, use, retention and sharing of personal information pursuant to this chapter and regulations adopted thereunder shall be governed by this chapter and not any other state law.
(b) For the purposes of California law, including but not limited to Title 1.81.5
(commencing with Section 1798.100) of Part 4 of Division 3 of the Civil Code, the People
hereby find and declare that the collection, use, retention, and sharing of personal information
authorized or required by this chapter is necessary in order to comply with California state law as
set forth in this chapter.


19794. Definitions.

For purposes of this chapter, as used in both the singular and plural form, the following
definitions shall apply:

(a) “Adjusted gross online sports betting receipts” means the dollar amount remaining
after subtracting the dollar amounts described in paragraph (2) from the dollar amounts described
in paragraph (1):

(1) Total gross receipts.

(2) The total dollar amount of all the following paid out or lost by the online sports
betting operator:

(A) All moneys paid out as winnings to all bettors.

(B) The value of all merchandise or property awarded as a prize to bettors.

(C) All federal excise taxes.

(D) All voided bets.

(b) “Amateur sports event” or “amateur sporting event” means any sports or athletic
event that is not a professional sports event, collegiate sports event, or youth sports event.

(c) “Collegiate sports event” or “collegiate sporting event” means an athletic event or
events in which at least one participant is a team from a public or private institution of higher
learning or an individual competing on behalf of a public or private institution of higher learning, regardless of where such institution is located.

(d) “Committee” means the Online Sports Betting Independent Advisory Committee established in Article 10.

(e) “Competitive event” or “novelty event” means any other event of any kind authorized by the Division for betting under this chapter, including but not limited to awards shows, non-athletic competitions and events, popular culture, and current events. “Competitive event” or “novelty event” does not include federal, state, local, or foreign elections.

(f) “Covered sporting event” or “covered sports event” means a professional, collegiate, or amateur sports event of a sports governing body on which one or more online sports betting operators offer or accept bets.

(g) “Department” means the California Department of Justice.

(h) “Division” means the Division of Online Sports Betting Control established in Article 9.

(i) “Director” means the director of the Division of Online Sports Betting Control.

(j) “Electronic sports event” or “electronic sporting event” means leagues, competitive circuits, tournaments, or similar competitions where individuals or teams play video games, typically for spectators, either in-person or online, for the purpose of prizes, money, or entertainment.

(k) “Fund” means the California Online Sports Betting Trust Fund established by Section 19750.

(l)(1) “Gaming tribe” means a federally recognized Indian tribe that legally operates slot machines or conducts banking and percentage card games, roulette, or games played with dice in conformity with either of the following:
(A) A valid compact negotiated with the Governor and ratified by the Legislature as provided in Section 19 of Article IV of the California Constitution.

(B) Class III gaming procedures issued by the Secretary of the United States Department of the Interior pursuant to the remedial provisions of Section 2710(d)(7) of Title 25 of the United States Code, or any successor federal statute.

(2) "Gaming tribe" includes any instrumentality, political subdivision, or other legal entity through which a gaming tribe operates slot machines or conducts banking and percentage card games, sports betting, roulette, or games played with dice in this State.

(m) "Handle" means the dollar amount equal to the total of all bets on a sporting event.

(n) "Hold" means the dollar amount equal to the total of all bets, except for bets made with free bets or promotional gaming credits, that an online sports betting licensee collects from patrons, less the total amount of all sums paid out as winnings to all patrons.

(o) "Indian lands" means the "Indian lands" of a federally recognized Indian tribe, as defined in Section 2703(4) of Title 25 of the United States Code, or any successor federal statute.

(p) "Key person" means a managerial employee of an operator applicant, supplier applicant, online sports betting operator, or online sports betting supplier who performs the function of principal executive officer, principal operations officer, or principal accounting officer, and any principal owner of such licensee or applicant, except for an institutional investor that holds for investment purposes less than 25 percent of the equity of applicant, operator, or supplier.

(q) "Market access agreement" means an agreement between a qualified gaming entity and a gaming tribe concerning the qualified gaming entity’s offering and conduct of online sports betting to persons physically present in this State but outside of Indian lands, the terms of which shall be determined solely by the parties to the agreement.

(r) "Motor sports event" means a sports event in which participants compete using a machine-powered vehicle or apparatus.
(s)(1) “Online sports betting” means accepting a bet or bets through an online sports betting platform on any of the following:

(A) Sporting events.

(B) Portions or combinations of sporting events.

(C) The individual statistics or performance of athletes or participants in a sporting event or combination of sporting events.

(2) Online sports betting can take the form of placing or accepting bets by way of any system or method of betting, including but not limited to single-game bets, teaser bets, parlays, over-under, moneyline, pools, exchange betting, in-game betting, in-play bets, proposition bets, and straight bets.

(3) “Online sports betting” does not include parimutuel betting on horse racing as set forth in Article 9 (commencing with Section 19590) of Chapter 4 of Division 8.

(i)(1) “Online sports betting operator” means the person or persons described in paragraph (2) that are licensed pursuant to this chapter to offer, conduct, and/or operate online sports betting in this State but outside of Indian lands.

(2)(A) Where a gaming tribe obtains a tribal operator license pursuant to Article 4 of this chapter, the gaming tribe is the online sports betting operator.

(B) Where a qualified gaming entity obtains a qualified gaming entity operator license pursuant to Article 4 of this chapter, the qualified gaming entity is the online sports betting operator.

(C) Where an online sports betting platform provider obtains an online sports betting platform provider operator license pursuant to Article 4 of this chapter, the online sports betting platform provider is the online sports betting operator.

(u) “Online sports betting operator license” means a license issued by the Division to an online sports betting operator pursuant to this chapter to offer, conduct, and/or operate online
sports betting in this State but outside of Indian lands. An “online sports betting operator license” includes a tribal operator license, a qualified gaming entity operator license, and an online sports betting platform provider operator license.

(aa) “Online sports betting platform” or “platform” means an online-enabled application, Internet website, or other electronic or digital technology used to offer, conduct, and/or operate online sports betting.

(ab) “Online sports betting platform provider” means a person that contracts with a gaming tribe to provide an online sports betting platform or other services to the gaming tribe that are specific to online sports betting and that are necessary for offering, conducting, and/or operating online sports betting by the gaming tribe, including odds and line information, settling bets, or maintaining sports betting customer accounts.

(ac) “Online sports betting platform provider application” means an application described in subparagraph (C) of paragraph (1) of subdivision (b) of Section 19763.

(ad) “Online sports betting platform provider license” means an online sports betting operator license described in subparagraph (C) of paragraph (1) of subdivision (b) of Section 19763.

(bb) “Online sports betting supplier” means a person that provides or offers services to an online sports betting operator.

(cc) “Operating agreement” means a written contract in a form approved by the Division in which a gaming tribe and an online sports betting platform provider agree to all of the following:

(1) The online sports betting platform provider will offer, conduct, and/or operate online sports betting in lieu of the gaming tribe.

(2) The online sports betting platform provider shall apply for an online sports betting operator license, and shall be the only party to the agreement that obtains any license under this chapter.
(3) The gaming tribe shall have no active role in the offering, conduct, and/or operation of online sports betting.

(4) Whether the online sports betting platform provider will share a portion of profits from the offering, conduct, and/or operation of online sports betting with the gaming tribe.

(5) The online sports betting platform provider shall be responsible for payment of all license fees, license renewal fees, taxes, penalties, fines, and surcharges applicable to the offering, conduct, and/or operation of online sports betting with persons physically present in this State but outside of Indian lands.

(dd) "Operator applicant" means all of the following:

(1) Where a gaming tribe submits a tribal operator application pursuant to Article 4 of this chapter, the gaming tribe is operator applicant.

(2) Where a qualified gaming entity submits a qualified gaming entity application pursuant to Article 4 of this chapter, the qualified gaming entity is the operator applicant.

(3) Where an online sports betting platform provider submits an online sports betting platform provider application pursuant to Article 4 of this chapter, the online sports betting platform provider is the operator applicant.

(ee) "Patron," "bettor," "consumer," or "customer" means an individual in this State eligible to place, make, or initiate bets on sports events pursuant to this chapter who has placed, made, or initiated, or in the future places, makes, or initiates, such bets.

(ff) "Person" means individuals, natural persons, gaming tribes, tribal entities, corporate entities, and any other legal entity of any kind. When used as a noun, "individual" means a human being.

(gg) "Principal owner" means a person or entity that holds more than a 10 percent ownership interest.
(hh) “Professional sports event” or “professional sporting event” means an athletic event in which at least two or more competitors participate and one or more competitors receives compensation for participating in the event. Any event that qualifies as a collegiate sport shall not be considered a professional sport regardless of whether competitors are compensated.

(ii) “Qualified gaming entity” means a person that satisfies at least one of the following conditions:

(1) The person and its affiliates collectively are licensed or similarly authorized to offer, conduct and/or operate online sports betting in at least ten U.S. states or territories; or

(2) The person and its affiliates collectively (A) are licensed or similarly authorized to offer, conduct, and/or operate online sports betting in at least five U.S. states or territories; and (B) operate and/or manage at least twelve casinos physically located anywhere within a U.S. state or territory that offer games that would be “Class III gaming” under Section 2703 of Title 28 of the United States Code if the casino were operated by an Indian tribe.

(jj) “Qualified gaming entity application” means an application described in subparagraph (B) of paragraph (1) of subdivision (b) of Section 19763.

(kk) “Qualified gaming entity operator license” means an online sports betting operator license described in subparagraph (B) of paragraph (1) of subdivision (b) of Section 19763.

(ll) “Tribal application” means an application described in subparagraph (A) of paragraph (1) of subdivision (b) of Section 19763.

(mm) “Tribal operator license” means an online sports betting operator license described in subparagraph (A) of paragraph (1) of subdivision (b) of Section 19763.

(ma)(1) “Sports event” or “sporting event” means all of the following:

(A) A professional sports event.

(B) An athletic event.

(C) A collegiate sports event.
(D) An amateur sports event.

(E) An electronic sports event.

(F) A motor sports event.

(G) A competitive event or novelty event.

(2) "Sports event" or "sporting event" does not include horse races that are subject to Article 9 (commencing with Section 19590) of Chapter 4 of Division 8.

(mb) "Sports governing body" means an organization that is headquartered in the United States and prescribes final rules and enforces codes of conduct with respect to a covered sports event and participants therein.

(nn) "Sports league" means an organization that hosts or coordinates a recurring series of sports events between teams or individuals that are members of, or affiliated with, the organization.

(oo) "Supplier applicant" means a person that applies for an online sports betting supplier license pursuant to Article 6.

(pp) "Total gross receipts" means the total dollar amount of all online sports bets, except for sports bets made with free bets or promotional gaming credits, that the online sports betting operator collects from bettors.

(qq) "U.S. state or territory" means the District of Columbia, any United States territory, or any state represented in the United States Senate besides the State of California.

(rr)(1) "Bet" or "wager" means the staking or risking by a person of something of value upon an agreement or understanding that the person or another person will receive something of value in the event of a certain outcome. The terms do not include:

(A) Any activity governed by the securities laws of the United States or this state.

(B) Any contract of indemnity or guarantee.
(C) Any contract for insurance.

(D) Participation in any game or contest in which the participants do not stake or risk anything of value other than personal efforts of the participants in playing the game or contest or obtaining access to the Internet, or points or credits that the sponsor of the game or contest provides to participants free of charge and that can be used or redeemed only for participation in games or contests offered by the sponsor.

(E) A fantasy sports contest in which winning outcomes reflect the relative knowledge and skill of the players and are predominantly determined by the accumulated statistical performance of athletes or individuals.

(2) References to a bet or wager being “made,” “placed,” or “initiated, or any combination or conjugation of those terms, are used interchangeably within this chapter.

(ss)(1) “Youth sports event” or “youth sporting event” means an athletic event or events in which either of the following conditions exists:

(A) The majority of participants are under the age of 18 years.

(B) At least one participant is a team from a public or private elementary, middle, or secondary school, regardless of where such school is located.

(2) Notwithstanding paragraph (1), if an athletic event is an Olympic event or meets the definition of “collegiate sports event” or “professional sports event,” then the event shall not be considered to be a youth sports event regardless of the age of the participants.

(3) Designation as a “youth sports event” shall be limited to the single game or match in which either of the conditions set forth in subparagraph (A) or subparagraph (B) of paragraph (1) exist, and shall not be construed to prohibit betting on other games in a tournament or multigame event in which a youth sports team participates.

Section 5. Section 15.5 is added to Article XIII B of the California Constitution, to read:
SEC. 15.5. “Appropriations subject to limitation” of each entity of government shall not include appropriations of revenues from the California Online Sports Betting Trust Fund created by the California Solutions to Homelessness and Mental Health Support Act, or any other revenues deposited into any other fund or account pursuant to that Act. No adjustment in the appropriations limit of any entity of government shall be required pursuant to Section 3 as a result of revenues being deposited in or appropriated from the California Online Sports Betting Trust Fund created by California Solutions to Homelessness and Mental Health Support Act or any other fund or account pursuant to that Act.

Section 6. Section 23.5 is added to Article XVI of the California Constitution, to read:

SEC. 23.5. The taxes imposed by the California Solutions to Homelessness and Mental Health Support Act and the revenue derived therefrom, including investment interest, shall not be considered General Fund revenues for purposes of Section 8 and its implementing statutes, and shall not be considered “General Fund revenues,” “state revenues,” or “General Fund proceeds of taxes” for purposes of subdivisions (a) and (b) of Section 8 and its implementing statutes.

Section 7. Severability.

The provisions of this Act are severable. If any portion, section, subdivision, paragraph, clause, sentence, phrase, word, or application of this Act is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this Act. The People of the State of California hereby declare that they would have adopted this Act and each and every portion, section, subdivision, paragraph, clause, sentence, phrase, word, and application not declared invalid or unconstitutional without regard to whether any part of this Act or application thereof would be subsequently declared invalid.

Section 8. Conflicting and Non-Conflicting Initiative Measures.

(a) Conflicting Initiative Measures. In the event that this initiative measure and another initiative measure or measures authorizing sports betting to be offered over the Internet and on mobile devices to persons aged 21 years or older physically present in this State but outside of Indian lands shall appear on the same statewide election ballot, the other initiative measure or
measures shall be deemed to be in conflict with this measure. In the event that this initiative measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other initiative measure or measures shall be null and void.

(b) Non-conflicting Initiative Measures.

(1) Notwithstanding subdivision (a), this initiative measure shall not be deemed to be in conflict with the California Sports Wagering Regulation and Unlawful Gambling Enforcement Act, which was initially designated as Initiative No. 19-0029 Amendment #1 by the Attorney General and # 1886 by the Secretary of State.

(2) The voters hereby declare that this Act and the initiative measure described in paragraph (1) are complementary and supplementary to each other; and are not competing all-or-nothing alternatives. The voters hereby freely and unequivocally express their intent that if this Act and the initiative measure described in paragraph (1) are both approved at the same election, that both this Act and the other initiative measure should both be given full force and effect.

(3) The voters hereby further declare:

(A) The California Sports Wagering Regulation and Unlawful Gambling Enforcement Act and this Act are complementary and supplementary to each other.

(B) This Act and the California Sports Wagering Regulation and Unlawful Gambling Enforcement Act are not competing all-or-nothing alternatives.

(C) It is the intent of the People that, should this Act and the California Sports Wagering Regulation and Unlawful Gambling Enforcement Act both be approved by the voters at the same election, both measures should be given full force and effect in order ensure that the benefits of safe, legal online and in-person sports betting can both be realized for the State of California.

(c) If this initiative measure is approved by the voters but superseded in whole or in part by any other conflicting initiative measure approved by the voters at the same election, and such conflicting measure is later held invalid, this measure shall be self-executing and given full force and effect.
Section 9. Liberal Construction.

This Act shall be liberally construed to give effect to its intent and purposes, which are expressed in Section 2 of this Act.

Section 10. Legal Defense.

The purpose of this section is to ensure that the people’s precious right of initiative cannot be improperly annulled by state politicians who refuse to defend the will of the voters. Therefore, if this Act is approved by the voters of the State of California and thereafter subjected to a legal challenge which attempts to limit the scope or application of this Act in any way, or alleges this Act violates any state or federal law in whole or in part, and both the Governor and Attorney General refuse to defend this Act to the fullest extent possible on behalf of the State of California, then the following actions shall be taken:

(a) Notwithstanding anything to the contrary contained in Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code or any other law, the Attorney General shall appoint independent counsel to faithfully and vigorously defend this Act to the fullest extent possible on behalf of the State of California.

(b) Before appointing or thereafter substituting independent counsel, the Attorney General shall exercise due diligence in determining the qualifications of independent counsel and shall obtain written affirmation from independent counsel that independent counsel will faithfully and vigorously defend this Act to the fullest extent possible. The written affirmation shall be made publicly available upon request.

(c) In order to support the defense of this Act in instances where the Governor and Attorney General fail to do so despite the will of the voters, a continuous appropriation is hereby made from the General Fund to the Controller, without regard to fiscal years, in an amount necessary to cover the costs of retaining independent counsel to faithfully and vigorously defend this Act on behalf of the State of California to the fullest extent possible.
Item B-4
The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City’s location, economy, programs, and policies through the adoption of a Legislative Platform.

This item is a request by Councilmember Nazarian. Senate Bill 930 – Alcoholic Beverages: Hours of Sale (“SB 930”), beginning January 1, 2025, until January 2, 2030, requires the Department of Alcoholic Beverage Control (“ABC”) to conduct a pilot program that issues an additional-hours license to an on-sale licensee located in qualified cities (cities of Cathedral City, Coachella, Fresno, Oakland, Palm Springs and West Hollywood and the City and County of San Francisco), authorizing the licensee to serve alcoholic beverages between 2 a.m. and 4 a.m. This item involves a policy matter that is not specifically addressed within the adopted Legislative Platform language.

In 2019, Senator Scott Wiener introduced a similar bill, SB 54. The bill summary memo from 2019 is attached for reference. At the May 22, 2019 meeting, the City Council Liaison/Legislative/Lobby Liaisons voted to remain neutral on the bill.

The City’s state lobbyist, Shaw Yoder Antwi Schmelzer & Lange, provided a summary memo for SB 930 to the City (Attachment 2) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee. Please note, the bill was amended on August 11; however, the amendments were not in print at the time this memo was prepared.

After discussion of SB 930, the Liaisons may recommend the following actions:

1) Support SB 930;
2) Support if amended SB 930;
3) Oppose SB 930;
4) Oppose unless amended SB 930;
5) Remain neutral; or
6) Provide other direction to City staff.

This item will also be on the August 23, 2022, City Council agenda for formal adoption of a position.
Attachment 1
INTRODUCTION

Senate Bill 58 (Wiener) - Alcoholic Beverages: Hours of Sale would create a pilot program for five years that would allow alcoholic beverages to be sold between the hours of 2 a.m. and 4 a.m. for the cities of Cathedral City, Coachella, Fresno, Long Beach, Los Angeles, Oakland, Palm Springs, Sacramento, San Francisco, and West Hollywood (Attachment 1) for the onsite consumption of alcohol.

This item requests the Legislative/Lobby Liaisons consider taking a position on Senate Bill 58 (SB 58). Should the Liaisons recommend the City take a position on SB 58, then staff will place the item on a future City Council Agenda for concurrence as this item is not listed in the City Council adopted Legislative Platform.

DISCUSSION

Background

California Alcohol Beverage Control (ABC) has the exclusive authority to license and regulate the manufacturing, distribution, and sale of alcoholic beverages within California. There are approximately 50,000 on-sale licensees that have been issued in the state.

An on-sale license authorizes the sale of alcoholic beverages for consumption on the premises. An off-sale license authorizes the sale of alcoholic beverages for consumption off the premises in the original, sealed containers. There are over 9,000 on-sale licenses issued within the identified pilot cities which could potentially be impacted by this bill.

Over the years, local governments have requested increased authority to directly regulate establishments that sell alcohol in their respective communities, especially concerning zoning laws and conditional use permits. Currently, state law prohibits the sale of any alcoholic beverages between the hours of 2 a.m. and 6 a.m. of the same day. Any violation of this law is considered a misdemeanor.

The hours during which alcoholic beverages can be purchased varies across the United States. At least 15 states across the country delegate complete or partial authority for setting or extending service hours to the local jurisdictions, subject to state approval. A number of cities
have extended services hours including Chicago, Washington, D.C., New York City, Buffalo, Las Vegas, Louisville, Atlanta, Indianapolis, Miami Beach, and New Orleans.

In 2018, Senator Wiener drafted a similar ordinance which the City opposed (Attachment 2).

**Proposed Legislation**

Senator Scott Wiener has authored a bill to create a five-year pilot program, beginning January 1, 2022, to issue an additional hours license to an on-sale licensee in a qualified city that would allow alcoholic beverages to be sold between the hours of 2 a.m. and 4 a.m. According to Senator Wiener, “social and nightlife venues are an economic driver in many communities, and the state’s food service and entertainment industries generate billions of dollars in consumer spending ….”

As written, SB 58 is an optional tool for local control over nightlife and, if implemented, is projected to increase tax revenue and tourism for the identified pilot cities. While our City traditionally has supported local control, this legislation would adversely impact Beverly Hills as the consumption of alcohol in West Hollywood or Los Angeles would cause a need for an increase in DUI enforcement. The City could also see an increase in potential fatal accidents caused by the extended hours for alcohol sales.

Some key provisions in SB 58 include:

- Requiring the ABC, beginning January 1, 2022, conduct a pilot program that may issue an additional hours license authorizing the selling of alcoholic beverages at an individual on-sale licensed premise between the hours of 2 a.m. and 4 a.m. within a qualified city (defined as the Cities of Cathedral City, Coachella, Fresno, Long Beach, Los Angeles, Oakland, Palm Springs, Sacramento, San Francisco, and West Hollywood) if the local governing body of that qualified city designates a task force composed of at least one member of law enforcement and one additional member of the California Highway Patrol, to develop a recommended local plan.

- Requiring an on-sale licensee that is issued an additional hours permit have all persons engaged in the sale or service of alcohol during the additional hours period complete a responsible beverage training course.

- Prohibiting off-sale alcoholic beverage sales privileges during the additional hours period.

- Requiring the California Highway Patrol by January 1, 2024, provide the Legislature with a report on the regional impact of the additional hours service areas, which shall include information on any additional costs incurred by adjacent cities and counties as a result of being adjacent to an area with additional service hours, including the impact that an additional hours service area had on arrests for driving under the influence in adjacent cities, counties, and cities and counties.

- Require a qualified city that chooses to participate in the pilot program, by January 1, 2020, to provide the Legislature with a report on the regional impact of the additional hours licenses which shall include information on the overall costs of providing policing during the additional service hours and any impact the additional service hours had on crime rates in the city, including arrests for driving under the influence, a detailed description of the number of licensees that applied for additional hours licenses, the
number of additional hours licenses issued, and any conditions placed on those licenses.

Public Safety Concerns
In 2017, there were 10,874 alcohol-related traffic fatalities in the United States involving drivers with a blood alcohol concentration (BAC) level of .08g/dL or higher. This totaled 29 percent of all traffic fatalities in the United States and resulted in an average of one alcohol-related driving fatality every 48 minutes. The estimated economic cost of all alcohol-related vehicle accidents in the United States in 2010 is estimated at $44 billion (Attachment 3).

Internationally peer-reviewed research conducted over the past 40 years shows that changes in last call times of 2 hours or more are associated with an increase in alcohol-related traffic accidents and tickets for driving under the influence (DUI). Some key findings in the research include:

- Research in Australia and Norway suggests later last call times increase violence by 17 percent to 50 percent.
- Different last call times between areas can cause a “splash effect” onto nearby communities as intoxicated drivers travel from one area with a last call time of 2 a.m. to another area with a last call time of 4 a.m.
- Late-night consumption of alcohol can create deadly drivers even at the legal .08 BAC standard as fatigue and alcohol interact.

Public health related research at the University of California Los Angeles (“UCLA”) Fielding School of Public Health and UCLA Geffen School of Medicine has found that two or more hours of increased alcohol sales will produce an increase in vehicle accident injuries and admissions to the emergency rooms of hospitals.

Additionally, the California Office of Traffic Safety (OTS) has reported that fatality alcohol-related vehicle accidents are a chronic and worsening problem for the state. Alcohol-impaired driving fatalities (fatalities in crashes involving a driver or motorcycle rider with BAC of 0.08 grams per deciliter (g/dL) or higher) increased 16.3 percent from 2015 to 2016 as there were 911 fatalities in 2015 and 1,059 in 2016. Since 2014, alcohol-related traffic accident deaths has risen 21 percent. This increase in alcohol-related traffic fatalities is occurring despite the existence of ride share. While OTS does not yet list the data for 2017, the National Highway Transportation and Safety Administration (NHTSA) has listed a figure of 1,120 alcohol-related traffic fatalities in California for 2017.

There is also a concern that while 17 percent of the state’s population is in the pilot cities, the metropolitan districts in and around these areas includes 76 percent of the state’s population. Given the hours people travel on the road to and from their workplace, there is a high probability of mixing late night drivers who are under the influence of alcohol and early morning commuters. Additionally, there may be an increase cost to the neighboring jurisdictions of the pilot cities to deter driving under the influence as well as responding to alcohol-related traffic accidents.

Support/Opposition
As of March 2019, organizations in support of SB 58 include:
Organization listed in opposition to SB 58 include:

- Alcohol Justice
- City of Los Angeles
- Institute of Public Strategies
- Saving Lives Coalition

SB 58 passed out of the Senate Appropriations Committee on May 16, 2019.

**FISCAL IMPACT**

The fiscal impact of this legislation is unknown to the City. It is anticipated that there will be more people driving under the influence of alcohol through the City as two of the pilot cities are adjacent to Beverly Hills. This may cause an increase in calls for service for both the Fire Department and Police Department. Whether or not additional staffing would be required to address these calls for service cannot be determined at this time.

**RECOMMENDATION**

After discussion of Senate Bill 58 (Wiener) – Alcoholic Beverages: Hours of Sale, the Liaisons may recommend the following actions:

1) Support SB 58;
2) Support if amended SB 58;
3) Oppose SB 58;
4) Oppose unless amended SB 68;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on SB 58, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 2
June 30, 2022

To: Cindy Owens, City of Beverly Hills

From: Andrew K. Antwih, Partner, Shaw Yoder Antwih Schmelzer & Lange
Priscilla Quiroz, Legislative Advocate, Shaw Yoder Antwih Schmelzer & Lange

Re: SB 930 (Wiener) Alcoholic Beverages: Hours of Sale: Pilot Program

Version

As introduced on February 2, 2022, SB 930 (Wiener) included provisions that sought to expand current law under the Housing Accountability Act to include housing development projects that include extremely low income (ELI) housing units under the types of developments that are prohibited from being disapproved in regions that have not met their Regional Housing Need Allocations (RHNA) if the project complies with applicable objective standards, and would not have adverse impacts on public health or safety.

Gut and Amend. SB 930 (Wiener) was amended on June 2, 2022 to delete prior contents related to the Housing Accountability Act and insert new provisions related to authorize a pilot program to allow alcoholic beverages to be served at retail establishments in designated cities in the state (specified below) between 2am and 4am. Detailed summary below.

Summary

Beginning January 1, 2025 and January 2, 2030, requires the State Department of Alcoholic Beverage Control (ABC) to conduct a pilot program that issues an “additional-hours license” to on-sale licensees located in the following local jurisdictions, defined in the bill as “qualified cities”, authorizing the licensee to serve alcoholic beverages between 2 a.m. and 4 a.m.: Cathedral City, Coachella, Fresno, Oakland, Palm Springs, West Hollywood and the City and County of San Francisco. Specifically, this bill:

1) Requires, to be eligible for the pilot program, the local governing body of a qualified city to:

   a. Designate a task force, including a member of the Department of the California Highway Patrol (CHP), to develop a recommended local plan that takes into account support by residents and businesses,
public safety and transportation considerations and impact on adjacent localities, amongst other factors.

b. Adopt an ordinance that satisfies the elements of the local plan and, beginning January 1, 2023, submit the ordinance to ABC.

2) Requires ABC to review a submitted ordinance to ensure local plan criteria are met. Beginning January 1, 2023, ABC may review and approve ordinances and investigate and issue additional-hours licenses to on-sale licensees, but any pre-issued licenses are not effective until January 1, 2025. The licensee applicant must notify specified stakeholders so protests to the application may be filed at any ABC office.

3) Specifies other requirements for additional-hours licensees, including that all persons engaged in the service of alcohol during the additional-hours period must complete a responsible beverage training course. Any person under 21 years of age who is on the licensed premises without lawful business during these hours is guilty of a misdemeanor.

4) Sets a nonrefundable $2,500 application fee and a $2,500 original and annual fee for an additional-hours license, to be deposited in the Alcohol Beverage Control Fund (ABC Fund).

5) Requires each participating city, within one year of the first additional-hours license issued in that city, and annually thereafter, as well as CHP, by January 1, 2029, to submit a report to the Legislature with specified data regarding the regional impact of the new licenses.

**Existing Law**

1) The enactment of the 21st Amendment to the United States Constitution in 1933 repealed the 18th Amendment and ended the era of Prohibition. Accordingly, states were granted the authority to establish alcoholic beverage laws and administrative structures to regulate the sale and distribution of alcoholic beverages.

2) Establishes ABC and grants it exclusive authority to administer the provisions of the ABC Act (ABC Act) in accordance with laws enacted by the Legislature. This involves licensing individuals and businesses associated with the manufacture, importation, and sale of alcoholic beverages in this state and the collection of license fees.

3) Provides that the ABC Act is intended to protect the safety, welfare and morals of the residents of this state, eliminate the unlawful selling and disposing of alcoholic beverages, and to promote temperance in the use and consumption of alcoholic beverages.

4) Provides that any on-sale or off-sale licensee, or agent or employee of the licensee, who sells, gives or delivers to any person any alcoholic beverage between the hours of 2 a.m. and 6 a.m. of the same day, and any person who
knowingly purchases any alcoholic beverages between those hours, is guilty of a misdemeanor. (Business and Professions Code Section 25632)

5) Provides ABC must deny an application for a license if issuance would create a law enforcement problem, or if issuance would result in, or add to, an undue concentration of licenses in the area where the license is desired. For liquor stores and other specified retail licenses, however, the ABC is authorized to issue a license if the respective local government determines that public convenience or necessity would be served by granting the license.

6) Caps the number of new on and off-sale general licenses issued by ABC at one for every 2,500 inhabitants of the county where the establishment is located (2,000:1 for on-sale licenses). If no licenses are available from the state due to the population restrictions, those people interested in obtaining a liquor license may purchase one from an existing licensee, for whatever price the market bears. In 1994, the Legislature approved a three-year moratorium on the issuance of new off-sale beer and wine licenses, which at the time was not bound by any population to license restriction. In 1997, this moratorium was made permanent.

7) Defines an "on-sale" license as authorizing the sale of all types of alcoholic beverages: namely, beer, wine and distilled spirits, for consumption on the premises (such as at a restaurant or bar):
   a. On-Sale General: Authorizes the sale of all types of alcoholic beverages: namely, beer, wine and distilled spirits, for consumption on the premises, and the sale of beer and wine for consumption off the premises.
   b. On-Sale Beer and Wine: Authorizes the sale of all types of wine and malt beverages (e.g., beer, porter, ale, stout and malt liquor) for consumption on and off the premises.
   c. On-Sale Beer: Authorizes the sale of malt beverages for consumption on and off the premises. (Business and Professions Code Sections 23393, 23394, 23396, and 23399)

8) Defines "bona fide public eating place" as a licensed premises that are maintained in good faith and used for the regular service of meals to patrons. The premises must have suitable kitchen facilities and supply an assortment of foods commonly ordered at various hours of the day. There are no restrictions regarding minors entering or remaining on premises licensed and maintained and operated as a bona fide public eating-place.

9) States an "off-sale" license authorizes the sale of all types of alcoholic beverages for consumption off the premises in original, sealed containers.

**Background**

According to the author, many of the state's food service and entertainment establishments, including social and nightlife venues, are still struggling from the effects of the COVID-19 pandemic. The author further notes: Currently, our California destination cities are at a disadvantage when competing with cities both nationally and internationally for tourists, conventions, and conferences. Additionally, the [2 a.m.] mandatory closure time creates stress on public services, transportation, and local law enforcement when patrons are
simultaneously pushed out onto the street at the exact same time. SB 930 seeks to solve these issues in a safe and manageable way, while ensuring California's nightlife is provided the tools needed to aid in its recovery.

This bill is supported by some of the qualified cities that could participate in the pilot program, as well as those cities’ tourism boards and the California Travel Association, which states, “SB 930 is a reasonable solution that provides certain cities the ability to participate in a pilot program that will give them additional tools to enhance their local economies and help entice more visitors to California.”

This bill is opposed by a local neighborhood association, organizations against increased alcohol consumption and the California Association of Highway Patrolmen, which states, “With bars closing near the commute hour, there will be more drivers on the road and the likelihood of drunk driving accidents will increase substantially.”

ABC has the exclusive authority to license and regulate the manufacturing, distribution and sale of alcoholic beverages within the state. Currently, ABC oversees more than 92,000 licensees throughout the state. Over the years, local governments have requested increased authority to directly regulate establishments that sell alcohol in their respective communities, especially regarding zoning laws and conditional use permits.

Since 1935, ABC licensees have been prohibited from selling, serving or allowing open containers of alcoholic beverages to remain in the public portion of the business from 2:00 a.m. to 6:00 a.m. This bill shortens these restricted hours to 4:00 a.m. to 6:00 a.m. for an on-sale licensee in a qualified city that holds an additional-hours license issued by ABC. There are approximately 6,000 on-sale licensees (generally, restaurants, bars, taverns and night clubs) located within the qualified cities that may participate in this pilot program.

**Prior Legislation.**

SB 58 (Wiener), of the 2019-2020 Legislative Session, was substantially similar to this bill, but would have limited the additional hour of sale to 3 a.m. and included the cities of Long Beach, Los Angeles and Sacramento as qualified cities. SB 58 failed passage on the Assembly Floor.

SB 905 (Wiener), of the 2017-18 Legislative Session, was substantially similar to SB 58, but would have allowed sales to continue until 4 a.m. and did not include the City of Fresno. SB 905 was vetoed by Governor Brown, who stated:

Without question, these two extra hours will result in more drinking. The businesses and cities in support of this bill see that as a good source of revenue. [CHP], however, strongly believes that this increased drinking will lead to more drunk driving. California's laws regulating late night drinking have been on the books since 1913. I believe we have enough mischief from midnight to 2 without adding two more hours of mayhem.
**Status of Legislation/Pending Amendments**

SB 930 (Wiener) was released from the suspense file in the Assembly Appropriation Committee on Friday, August 11th. The committee amended the bill to make the following changes:

Limit the duration of the pilot program to three years; and
Limit the pilot program to the following three cities:

1) West Hollywood  
2) Palm Springs  
3) The City and County of San Francisco

**Support**
Bay Area Council  
California Teamsters Public Affairs Council  
California Travel Association (CALTRAVEL)  
City of Cathedral City  
City of Palm Springs  
Greater Palm Springs Convention & Visitors Bureau  
Independent Hospitality Coalition  
London Breed, Mayor of San Francisco  
City of Oakland  
Visit Oakland  
West Hollywood Travel & Tourism Board

**Opposition**
Alcohol Justice  
Barbary Coast Neighborhood Association  
California Alcohol Policy Alliance  
California Association of Highway Patrolmen  
California Council on Alcohol Problems (CCAP)  
Mothers Against Drunk Driving (MADD)
Attachment 3
An act to amend Section 65589.5 of the Government Code, relating to housing.

An act to amend, repeal, and add Section 25631 of, and to add and repeal Section 25634 of, the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL’S DIGEST


The Alcoholic Beverage Control Act provides that any on- or off-sale licensee, or agent or employee of the licensee, who sells, gives, or delivers to any person any alcoholic beverage between the hours of 2 a.m. and 6 a.m. of the same day, and any person who knowingly purchases any alcoholic beverages between those hours, is guilty of a misdemeanor. Existing law provides for moneys collected as fees pursuant to the act to be deposited in the Alcohol Beverage Control Fund, with those moneys generally allocated to the Department of Alcoholic Beverage Control upon appropriation by the Legislature.

This bill, beginning January 1, 2025, and before January 2, 2030, would require the Department of Alcoholic Beverage Control to conduct a pilot program that would authorize the department to issue an additional hours license to an on-sale licensee located in a qualified city that would authorize, with or without conditions, the selling, giving, or purchasing of alcoholic beverages at the licensed premises between
the hours of 2 a.m. and 4 a.m., upon completion of specified requirements by the qualified city in which the licensee is located. The bill would impose specified fees related to the license to be deposited in the Alcohol Beverage Control Fund. The bill would require the applicant to notify specified persons of the application for an additional hours license and would provide a procedure for protest and hearing regarding the application. The bill would require the Department of the California Highway Patrol and each qualified city that has elected to participate in the program to submit reports to the Legislature and specified committees regarding the regional impact of the additional hours licenses, as specified. The bill would provide that any person under 21 years of age who enters and remains in the licensed public premises during the additional serving hour without lawful business therein is guilty of a misdemeanor, as provided. The pilot program would apply to the Cities of Cathedral City, Coachella, Fresno, Oakland, Palm Springs, and West Hollywood, and the City and County of San Francisco.

This bill would impose a state-mandated local program by creating new crimes.

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.

This bill would make legislative findings and declarations as to the necessity of a special statute for the qualified cities.

Existing law, the Housing Accountability Act, which is part of the Planning and Zoning Law, prohibits, among other things, a local agency from disapproving a housing development project that complies with applicable, objective general plan, zoning, and subdivision standards and criteria, or from imposing a condition that it be developed at a lower density, unless the local agency bases its decision on written findings supported by the preponderance of the evidence on the record that specified conditions exist, as provided.

Existing law prohibits a local agency from disapproving a housing development project for very low, low, or moderate-income households or from conditioning approval in a manner that renders the housing development project infeasible for very low, low, or moderate-income households, unless it makes specified written findings that either (1)
the jurisdiction has met its share of the regional housing need or (2) the project would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.

This bill would clarify that the above-described prohibitions also apply to a housing development project for extremely low income households.


The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) It is the policy of the state to promote the responsible consumption of alcoholic beverages by making multiple planning options available to local communities and entertainment areas of the state, including the option of extended services hours up to a limit of 4 a.m. in communities and areas of the state where those extended hours are found by the governing body of the responsible community to be proper and appropriate.

(b) At least 15 states across the country delegate complete or partial authority for setting service hours to local jurisdictions or allow local jurisdictions to extend the hours of service, subject to state approval.

(c) The Legislature supports a well-planned and managed nightlife that can have a profound positive impact on a local economy, generating direct tax revenues, and growing public funds by revitalizing business districts and increasing tourism.

(d) The Legislature supports the world-renowned California licensed restaurant, venue, and entertainment industry, which generates more than $50 billion every year in consumer spending in California communities on jobs, goods and services, and related industries, and that attracts world-class acts as well as tourists to visit and enjoy California.

(e) The Legislature has determined that it is in the best interest of the State of California for extended hours of operation policies to be administered by the Department of Alcoholic Beverage Control in connection with applications for additional hour privileges, with the fees for those applications to be determined.
and assessed by the department at a rate that will fully reimburse
the department for administrative expenses.

SEC. 2. Section 25631 of the Business and Professions Code
is amended to read:

25631. Any (a) (1) Except as provided in subdivision (b), any
on- or off-sale licensee, or agent or employee of that licensee, who
sells, gives, or delivers to any persons any alcoholic beverage or
any person who knowingly purchases any alcoholic beverage
between the hours of 2 o’clock a.m. and 6 o’clock a.m. of the same
day, is guilty of a misdemeanor.

For

(2) For the purposes of this section, subdivision, on the day that
a time change occurs from Pacific standard time to Pacific daylight
saving time, or back again to Pacific standard time, “2 o’clock
a.m.” means two hours after midnight of the day preceding the
day such the change occurs.

(b) (1) Beginning January 1, 2025, and before January 2, 2030,
in a city that has additional serving hours pursuant to Section
25634, any on-sale licensee, or agent or employee of the licensee,
who sells or gives to any person any alcoholic beverage or any
person who knowingly purchases any alcoholic beverage between
the hours of 4 a.m. and 6 a.m. of the same day, is guilty of a
misdemeanor.

(2) For the purposes of this subdivision, on the day that a time
change occurs from Pacific standard time to Pacific daylight
saving time, or back again to Pacific standard time, “4 a.m.”
means three hours after 12 midnight of the day preceding the day
the change occurs.

(c) This section shall remain in effect only until January 2, 2030,
and as of that date is repealed.

SEC. 3. Section 25631 is added to the Business and Professions
Code, to read:

25631. (a) (1) Any on- or off-sale licensee, or agent or
employee of that licensee, who sells, gives, or delivers to any
persons any alcoholic beverage or any person who knowingly
purchases any alcoholic beverage between the hours of 2 a.m. and
6 a.m. of the same day, is guilty of a misdemeanor.

(2) For the purposes of this section, on the day that a time
change occurs from Pacific standard time to Pacific daylight
saving time, or back again to Pacific standard time, “2 a.m.”
means two hours after midnight of the day preceding the day that change occurs.

(b) This section shall become operative on January 2, 2030.

SEC. 4. Section 25634 is added to the Business and Professions Code, to read:

25634. (a) Beginning January 1, 2025, notwithstanding Section 25631, the department shall conduct a pilot program and, pursuant to that pilot program, may issue an additional hours license that would authorize, with or without conditions, the selling, giving, or purchasing of alcoholic beverages at an individual on-sale licensed premises between the hours of 2 a.m. and 4 a.m. within a qualified city if the local governing body of that qualified city does the following:

(1) Designates a task force composed of members, including at least one member of law enforcement and one additional member of the Department of the California Highway Patrol, to develop a recommended local plan that meets all of the following requirements:

(A) Shows that the public convenience or necessity will be served by the additional hours.

(B) Identifies the service area in which an on-sale licensed premises would be eligible for an additional hours license and further identifies the area that will be affected by the additional hours and demonstrates how that area will benefit from the additional hours.

(C) Shows significant support by residents and businesses within the additional hours service area for the additional hours, pursuant to a determination by the local governing body.

(D) Includes an assessment by the local governing body, prepared in consultation with local law enforcement, regarding the potential impact of an additional hours service area and the public safety plan, created by local law enforcement, for managing those impacts that has been approved by the local governing body. The assessment shall include crime statistics, data derived from police reports, emergency medical response data, sanitation reports, and public health reports related to the additional hours service area.

(E) Shows that transportation services are readily accessible in the additional hours service area during the additional service hours.
(F) Includes programs to increase public awareness of the transportation services available and unavailable in the additional hours service area and the impacts of alcohol consumption.

(G) Includes an assessment of the potential impact of an additional hours service area on adjacent cities, counties, and cities and counties, including, but not limited to, nearby law enforcement agencies.

(H) Indicates that the qualified city chooses to participate in the pilot program.

(2) Based upon its independent assessment, adopts an ordinance that satisfies the elements of the local plan, including the requirements of subparagraphs (A) to (H), inclusive, of paragraph (1), and submits the ordinance to the department.

(3) For purposes of this section:

(A) “Local governing body” means the city council or the board of supervisors, as may be applicable, of a qualified city.

(B) “Qualified city” means the Cities of Cathedral City, Coachella, Fresno, Oakland, Palm Springs, and West Hollywood, and the City and County of San Francisco.

(4) A local governing body may comply with this section and approve a local plan and submit an ordinance to the department beginning January 1, 2023.

(b) (1) Upon receipt of an ordinance adopted pursuant to paragraph (2) of subdivision (a), including documentation regarding protests to the ordinance, the department shall review the ordinance to ensure that the ordinance contains the information required by paragraph (1) of subdivision (a). The department shall not issue an additional hours license to an applicant if the ordinance from the qualified city does not meet the requirements of paragraph (2) of subdivision (a).

(2) The department may review ordinances beginning January 1, 2023.

(c) (1) (A) An on-sale licensee shall not apply for an additional hours license pursuant to this section until the department has received the ordinance adopted pursuant to paragraph (2) of subdivision (a).

(B) Subject to subparagraph (A), an on-sale licensee may apply for an additional hours license beginning January 1, 2023. The department may issue additional hours licenses pursuant to this section beginning January 1, 2023. An additional hours license
issued on or after January 1, 2023, and before January 1, 2025, shall become effective on January 1, 2025. An additional hours license issued on or after January 1, 2025, shall become effective on its effective date.

(2) An on-sale licensee that has conditions on the license that restrict the hours of sale, service, or consumption of alcohol to a time earlier than 2 a.m. shall not be eligible for an additional hours license authorizing the sale, service, or consumption of alcoholic beverages after 2 a.m. for any day or days of the week during which a restriction exists.

(3) An on-sale licensee issued an additional hours license pursuant to this section shall require that all persons engaged in the sale or service of alcohol during the additional hours period complete a responsible beverage training course.

(4) Notwithstanding Section 23401, off-sale privileges shall not be exercised during the additional hours period allowed pursuant to the additional hours license.

(5) An additional hours license is not transferable between on-sale licensed premises.

(6) All new, existing, and previously legally nonconforming on-sale licensees, including previous person-to-person transferee licensees, will be subject to the local governing body’s requirements for an additional hours license. The local governing body may charge an additional hours licensee a fee to fund local law enforcement.

(7) The determination of the necessity for, and types of, local licensing and local permitting shall be made by the local governing body.

(d) (1) Upon receipt of an application by an on-sale licensee for an additional hours license pursuant to this section, the department shall make a thorough investigation, including whether the additional hours license sought by the applicant would unreasonably interfere with the quiet enjoyment of their property by the residents of the city, county, or city and county in which the applicant’s licensed premises are located, and may deny an application in the same manner as provided in Section 23958.

(2) The applicant shall notify the law enforcement agencies of the city, the residents of the city located within 500 feet of the premises for which an additional hours license is sought, and any other interested parties, as determined by the local governing
body, of the application by an on-sale licensee for an additional
hours license pursuant to this section within 30 consecutive days
of the filing of the application, in a manner determined by the local
governing body.

(3) Protests may be filed at any office of the department within
30 days from the first date of notice of the filing of an application
by an on-sale licensee for an additional hours license. The time
within which a local law enforcement agency may file a protest
shall be extended by the period prescribed in Section 23987.

(4) The department may reject protests, except protests made
by a public agency or public official, if it determines the protests
are false, vexatious, frivolous, or without reasonable or probable
cause at any time before hearing thereon, notwithstanding Section
24300. If, after investigation, the department recommends that an
additional hours license be issued notwithstanding a protest by a
public agency or a public official, the department shall notify the
agency or official in writing of its determination and the reasons
therefor, in conjunction with the notice of hearing provided to the
protestant pursuant to Section 11509 of the Government Code. If
the department rejects a protest as provided in this section, a
protestant whose protest has been rejected may, within 10 days,
file an accusation with the department alleging the grounds of
protest as a cause for revocation of the additional hours license
and the department shall hold a hearing as provided in Chapter
5 (commencing with Section 11500) of Part 1 of Division 3 of Title

(5) This section shall not be construed as prohibiting or
restricting any right that the individual making the protest might
have to a judicial proceeding.

(e) (1) If, after investigation, the department recommends that
an additional hours license be issued, with or without conditions,
notwithstanding that one or more protests have been accepted by
the department, the department shall notify the local governing
body and all protesting parties whose protests have been accepted
in writing of its determination.

(2) Any person who has filed a verified protest in a timely
fashion pursuant to subdivision (d) that has been accepted pursuant
to this section may request that the department conduct a hearing
on the issue or issues raised in the protest. The request shall be
in writing and shall be filed with the department within 15 business
days of the date the department notifies the protesting party of its
determination as required under paragraph (1).

(3) At any time before the issuance of the additional hours
license, the department may, in its discretion, accept a late request
for a hearing upon a showing of good cause. Any determination
of the department pursuant to this subdivision shall not be an issue
at the hearing nor grounds for appeal or review.

(4) If a request for a hearing is filed with the department
pursuant to paragraph (2), the department shall schedule a hearing
on the protest. The issues to be determined at the hearing shall be
limited to those issues raised in the protest or protests of the person
or persons requesting the hearing.

(5) Notwithstanding that a hearing is held pursuant to
paragraph (4), the protest or protests of any person or persons
who did not request a hearing as authorized in this section shall
be deemed withdrawn.

(6) If a request for a hearing is not filed with the department
pursuant to this section, any protest or protests shall be deemed
withdrawn and the department may approve the on-sale licensee’s
application for an additional hours license without any further
proceeding.

(7) If the person filing the request for a hearing fails to appear
at the hearing, the protest shall be deemed withdrawn.

(f) (1) The department shall notify the applicant of the outcome
of the application for an additional hours license. Any conditions
placed on the on-sale license shall apply to the additional hours
license. Any additional conditions placed upon the additional
hours license pursuant to this section shall be subject to Article
1.5 (commencing with Section 23800).

(2) The premises for which an additional hours license is issued
shall be restricted to patrons 21 years of age or older during the
additional hours period. Any person under 21 years of age who
enters and remains in the licensed premises during the additional
hours period without lawful business therein is guilty of a
misdemeanor and shall be punished by a fine of not less than two
hundred dollars ($200), no part of which shall be suspended. This
provision does not prohibit the presence on the licensed premises
of a person under 21 years of age that is otherwise authorized by
law.
(3) Section 24203 applies to an additional hours license issued pursuant to this section. An additional hours license may be suspended or revoked separately from the on-sale license.

(g) (1) The applicant shall, at the time of application for an additional hours license pursuant to this section, accompany the application with a nonrefundable fee of two thousand five hundred dollars ($2,500). Fees collected pursuant to this section shall be deposited in the Alcohol Beverage Control Fund.

(2) An original and annual fee for an additional hours license issued pursuant to this section shall be two thousand five hundred dollars ($2,500).

(h) The department shall adopt rules and regulations to enforce the provisions of this section.

(i) (1) On or before January 1, 2029, the Department of the California Highway Patrol shall provide the Legislature and the Senate and Assembly Committees on Governmental Organization with a report on the regional impact of the additional hours service areas, which shall include, but is not limited to, incidents involving driving under the influence and alcohol-related traffic collisions. Regional entities including cities, counties, and law enforcement may provide information to the Department of the California Highway Patrol on the impact the additional hours service areas had in their jurisdiction, including, but not limited to, incidents involving driving under the influence, alcohol-related traffic collisions, and any additional costs accrued. The report to be submitted pursuant to this section shall be submitted in compliance with Section 9795 of the Government Code.

(2) Each qualified city that chooses to participate in the pilot program shall provide the Legislature and the Senate and Assembly Committees on Governmental Organization with a report on the regional impact of the additional hours licenses within one year of the first additional hours license being issued in that city, and then once each year thereafter. The report shall include information on any impact the additional service hours had on crime rates in the city, including arrests for driving under the influence and domestic violence. The report shall also include a detailed description of the number of licensees that applied for additional hours licenses, the number of additional hours licenses issued, and conditions placed on those licenses, if any, by the department. The report to be submitted pursuant to this section
shall be submitted in compliance with Section 9795 of the Government Code.

(j) This section shall remain in effect only until January 2, 2030, and as of that date is repealed.

SEC. 5. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique abilities of the Cities of Cathedral City, Coachella, Fresno, Oakland, Palm Springs, and West Hollywood, and the City and County of San Francisco to provide the infrastructure needed to implement an additional service hours pilot program and the interest of those cities in this type of pilot program.

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

SECTION 1. Section 65589.5 of the Government Code, as amended by Section 8.1 of Chapter 360 of the Statutes of 2021, is amended to read:

65589.5. (a) (1) The Legislature finds and declares all of the following:

(A) The lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California.

(B) California housing has become the most expensive in the nation. The excessive cost of the state’s housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(C) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing,
reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(D) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing development projects, reduction in density of housing projects, and excessive standards for housing development projects.

(2) In enacting the amendments made to this section by the act adding this paragraph, the Legislature further finds and declares the following:

(A) California has a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state’s environmental and climate objectives.

(B) While the causes of this crisis are multiple and complex, the absence of meaningful and effective policy reforms to significantly enhance the approval and supply of housing affordable to Californians of all income levels is a key factor.

(C) The crisis has grown so acute in California that supply, demand, and affordability fundamentals are characterized in the negative: underserved demands, constrained supply, and protracted unaffordability.

(D) According to reports and data, California has accumulated an unmet housing backlog of nearly 2,000,000 units and must provide for at least 180,000 new units annually to keep pace with growth through 2025.

(E) California’s overall homeownership rate is at its lowest level since the 1940s. The state ranks 49th out of the 50 states in homeownership rates as well as in the supply of housing per capita. Only one-half of California’s households are able to afford the cost of housing in their local regions.

(F) Lack of supply and rising costs are compounding inequality and limiting advancement opportunities for many Californians.

(G) The majority of California renters, more than 3,000,000 households, pay more than 30 percent of their income toward rent and nearly one-third, more than 1,500,000 households, pay more than 50 percent of their income toward rent.
(H) When Californians have access to safe and affordable housing, they have more money for food and health care; they are less likely to become homeless and in need of government-subsidized services; their children do better in school; and businesses have an easier time recruiting and retaining employees.

(I) An additional consequence of the state’s cumulative housing shortage is a significant increase in greenhouse gas emissions caused by the displacement and redirection of populations to states with greater housing opportunities, particularly working- and middle-class households. California’s cumulative housing shortfall therefore has not only national but international environmental consequences.

(J) California’s housing picture has reached a crisis of historic proportions despite the fact that, for decades, the Legislature has enacted numerous statutes intended to significantly increase the approval, development, and affordability of housing for all income levels, including this section.

(K) The Legislature’s intent in enacting this section in 1982 and in expanding its provisions since then was to significantly increase the approval and construction of new housing for all economic segments of California’s communities by meaningfully and effectively curbing the capability of local governments to deny, reduce the density for, or render infeasible housing development projects and emergency shelters. That intent has not been fulfilled.

(L) It is the policy of the state that this section be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing.

(3) It is the intent of the Legislature that the conditions that would have a specific, adverse impact upon the public health and safety, as described in paragraph (2) of subdivision (d) and paragraph (1) of subdivision (j), arise infrequently.

(b) It is the policy of the state that a local government not reject or make infeasible housing development projects, including emergency shelters, that contribute to meeting the need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses
continues to have adverse effects on the availability of those lands
for food and fiber production and on the economy of the state.
Furthermore, it is the policy of the state that development should
be guided away from prime agricultural lands; therefore, in
implementing this section, local jurisdictions should encourage,
to the maximum extent practicable, in filling existing urban areas.
(d) A local agency shall not disapprove a housing development
project, including farmworker housing as defined in subdivision
(h) of Section 50199.7 of the Health and Safety Code, for extremely
low, very low, low-, or moderate-income households, or an
emergency shelter, or condition approval in a manner that renders
the housing development project infeasible for development for
the use of extremely low, very low, low-, or moderate income
households, or an emergency shelter, including through the use of
design review standards, unless it makes written findings, based
upon a preponderance of the evidence in the record, as to one of
the following:
(1) The jurisdiction has adopted a housing element pursuant to
this article that has been revised in accordance with Section 65588;
is in substantial compliance with this article, and the jurisdiction
has met or exceeded its share of the regional housing need
allocation pursuant to Section 65584 for the planning period for
the income category proposed for the housing development project,
provided that any disapproval or conditional approval shall not be
based on any of the reasons prohibited by Section 65008. If the
housing development project includes a mix of income categories,
and the jurisdiction has not met or exceeded its share of the regional
housing need for one or more of those categories, then this
paragraph shall not be used to disapprove or conditionally approve
the housing development project. The share of the regional housing
need met by the jurisdiction shall be calculated consistently with
the forms and definitions that may be adopted by the Department
of Housing and Community Development pursuant to Section
65400. In the case of an emergency shelter, the jurisdiction shall
have met or exceeded the need for emergency shelter, as identified
pursuant to paragraph (7) of subdivision (a) of Section 65583. Any
disapproval or conditional approval pursuant to this paragraph
shall be in accordance with applicable law, rule, or standards.
(2) The housing development project or emergency shelter as
proposed would have a specific, adverse impact upon the public
health or safety, and there is no feasible method to satisfactorily
mitigate or avoid the specific adverse impact without rendering
the development unaffordable to low- and moderate-income
households or rendering the development of the emergency shelter
financially infeasible. As used in this paragraph, a “specific,
adverse impact” means a significant, quantifiable, direct, and
unavoidable impact, based on objective, identified written public
health or safety standards, policies, or conditions as they existed
on the date the application was deemed complete. The following
shall not constitute a specific, adverse impact upon the public
health or safety:

(A) Inconsistency with the zoning ordinance or general plan
land use designation:

(B) The eligibility to claim a welfare exemption under
subdivision (g) of Section 214 of the Revenue and Taxation Code:

(C) The denial of the housing development project or imposition
of conditions is required in order to comply with specific state or
federal law, and there is no feasible method to comply without
rendering the development unaffordable to low- and
moderate-income households or rendering the development of the
emergency shelter financially infeasible:

(D) The housing development project or emergency shelter is
proposed on land zoned for agriculture or resource preservation
that is surrounded on at least two sides by land being used for
agricultural or resource preservation purposes, or which does not
have adequate water or wastewater facilities to serve the project:

(E) The housing development project or emergency shelter is
inconsistent with both the jurisdiction’s zoning ordinance and
general plan land use designation as specified in any element of
the general plan as it existed on the date the application was
deemed complete, and the jurisdiction has adopted a revised
housing element in accordance with Section 65588 that is in
substantial compliance with this article. For purposes of this
section, a change to the zoning ordinance or general plan land use
designation subsequent to the date the application was deemed
complete shall not constitute a valid basis to disapprove or
condition approval of the housing development project or
emergency shelter.

(A) This paragraph cannot be utilized to disapprove or
conditionally approve a housing development project if the housing
development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate income households in the jurisdiction’s housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction’s zoning ordinance and general plan land use designation.

(B) If the local agency has failed to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and are sufficient to provide for the jurisdiction’s share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency’s share of the regional housing need for the very low, low-, and moderate-income categories.

(C) If the local agency has failed to identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit, has failed to demonstrate that the identified zone or zones include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7) of subdivision (a) of Section 65583, or has failed to demonstrate that the identified zone or zones can accommodate at least one emergency shelter, as required by paragraph (4) of subdivision (a) of Section 65583, then this paragraph shall not be utilized to disapprove or conditionally approve an emergency shelter proposed for a site designated in any element of the general plan for industrial, commercial, or multifamily residential uses. In any action in court, the burden of proof shall be on the local agency to show that its housing element does satisfy the requirements of paragraph (4) of subdivision (a) of Section 65583.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the congestion management program required by Chapter 2.6 (commencing with Section 65088) of
Division 1 of Title 7 or the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) (1) Except as provided in subdivision (o), nothing in this section shall be construed to prohibit a local agency from requiring the housing development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction’s share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development.

(2) Except as provided in subdivision (o), nothing in this section shall be construed to prohibit a local agency from requiring an emergency shelter project to comply with objective, quantifiable, written development standards, conditions, and policies that are consistent with paragraph (4) of subdivision (a) of Section 65583 and appropriate to, and consistent with, meeting the jurisdiction’s need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. However, the development standards, conditions, and policies shall be applied by the local agency to facilitate and accommodate the development of the emergency shelter project.

(3) Except as provided in subdivision (o), nothing in this section shall be construed to prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the housing development project or emergency shelter.

(4) For purposes of this section, a housing development project or emergency shelter shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that would allow a reasonable person to
conclude that the housing development project or emergency shelter is consistent, compliant, or in conformity.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing, including emergency shelter, is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) “Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) “Housing development project” means a use consisting of any of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use.

(C) Transitional housing or supportive housing.

(3) “Housing for extremely low, very low, low, or moderate-income households” means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to persons and families of moderate income as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

(4) “Area median income” means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low
or low-income households in accordance with the provisions of this subdivision for 30 years.

(5) Notwithstanding any other law, until January 1, 2030, “deemed complete” means that the applicant has submitted a preliminary application pursuant to Section 65941.1 or, if the applicant has not submitted a preliminary application, has submitted a complete application pursuant to Section 65943.

(6) “Disapprove the housing development project” includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved, including any required land use approvals or entitlements necessary for the issuance of a building permit.

(B) Fails to comply with the time periods specified in subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(7) “Lower density” includes any conditions that have the same effect or impact on the ability of the project to provide housing.

(8) Until January 1, 2030, “objective” means involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official.

(9) Notwithstanding any other law, until January 1, 2030, “determined to be complete” means that the applicant has submitted a complete application pursuant to Section 65943.

(i) If any city, county, or city and county denies approval or imposes conditions, including design changes, lower density, or a reduction of the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the housing development project’s application is complete, that have a substantial adverse effect on the viability or affordability of a housing development for extremely low, very low, low-, or moderate-income households, and the denial of the development or the imposition of conditions on the development is the subject of a court action which challenges the denial or the imposition of conditions, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d), and that the findings
are supported by a preponderance of the evidence in the record; and with the requirements of subdivision (o).

(j) (1) When a proposed housing development project complies with applicable, objective, general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the application was deemed complete, but the local agency proposes to disapprove the project or to impose a condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by a preponderance of the evidence on the record that both of the following conditions exist:

(A) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a “specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(B) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(2) (A) If the local agency considers a proposed housing development project to be inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision as specified in this subdivision, it shall provide the applicant with written documentation identifying the provision or provisions, and an explanation of the reason or reasons it considers the housing development to be inconsistent, not in compliance, or not in conformity as follows:

(i) Within 30 days of the date that the application for the housing development project is determined to be complete, if the housing development project contains 150 or fewer housing units.

(ii) Within 60 days of the date that the application for the housing development project is determined to be complete, if the housing development project contains more than 150 units.
(B) If the local agency fails to provide the required documentation pursuant to subparagraph (A), the housing development project shall be deemed consistent, compliant, and in conformity with the applicable plan, program, policy, ordinance, standard, requirement, or other similar provision.

(3) For purposes of this section, the receipt of a density bonus, incentive, concession, waiver, or reduction of development standards pursuant to Section 65915 shall not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not in conformity, with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision specified in this subdivision.

(4) For purposes of this section, a proposed housing development project is not inconsistent with the applicable zoning standards and criteria, and shall not require a rezoning, if the housing development project is consistent with the objective general plan standards and criteria but the zoning for the project site is inconsistent with the general plan. If the local agency has complied with paragraph (2), the local agency may require the proposed housing development project to comply with the objective standards and criteria of the zoning which is consistent with the general plan, however, the standards and criteria shall be applied to facilitate and accommodate development at the density allowed on the site by the general plan and proposed by the proposed housing development project.

(k) (1) (A) (i) The applicant, a person who would be eligible to apply for residency in the housing development project or emergency shelter, or a housing organization may bring an action to enforce this section. If, in any action brought to enforce this section, a court finds that any of the following are met, the court shall issue an order pursuant to clause (ii):

(I) The local agency, in violation of subdivision (d), disapproved a housing development project or conditioned its approval in a manner rendering it infeasible for the development of an emergency shelter, or housing for extremely low, very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making findings supported by a preponderance of the evidence.

(II) The local agency, in violation of subdivision (j), disapproved a housing development project complying with applicable,
objective general plan and zoning standards and criteria, or imposed
a condition that the project be developed at a lower density, without
making the findings required by this section or without making
findings supported by a preponderance of the evidence:

(III) (ia) Subject to sub-subclause (ib), the local agency, in
violation of subdivision (o), required or attempted to require a
housing development project to comply with an ordinance, policy,
or standard not adopted and in effect when a preliminary
application was submitted:

(ib) This subclause shall become inoperative on January 1, 2030.
(ii) If the court finds that one of the conditions in clause (i) is
met, the court shall issue an order or judgment compelling
compliance with this section within 60 days, including, but not
limited to, an order that the local agency take action on the housing
development project or emergency shelter. The court may issue
an order or judgment directing the local agency to approve the
housing development project or emergency shelter if the court
finds that the local agency acted in bad faith when it disapproved
or conditionally approved the housing development or emergency
shelter in violation of this section. The court shall retain jurisdiction
to ensure that its order or judgment is carried out and shall award
reasonable attorney’s fees and costs of suit to the plaintiff or
petitioner, except under extraordinary circumstances in which the
court finds that awarding fees would not further the purposes of
this section:

(B) Upon a determination that the local agency has failed to
comply with the order or judgment compelling compliance with
this section within 60 days issued pursuant to subparagraph (A),
the court shall impose fines on a local agency that has violated this
section and require the local agency to deposit any fine levied
pursuant to this subdivision into a local housing trust fund. The
local agency may elect to instead deposit the fine into the Building
Homes and Jobs Trust Fund. The fine shall be in a minimum
amount of ten thousand dollars ($10,000) per housing unit in the
housing development project on the date the application was
deemed complete pursuant to Section 65943. In determining the
amount of fine to impose, the court shall consider the local
agency’s progress in attaining its target allocation of the regional
housing need pursuant to Section 65584 and any prior violations
of this section. Fines shall not be paid out of funds already
dedicated to affordable housing, including, but not limited to, Low-
and Moderate-Income Housing Asset Funds, funds dedicated to
housing for extremely low, very low, low-, and moderate-income
households, and federal HOME Investment Partnerships Program
and Community Development Block Grant Program funds. The
local agency shall commit and expend the money in the local
housing trust fund within five years for the sole purpose of
financing newly constructed housing units affordable to extremely
low, very low, or low-income households. After five years, if the
funds have not been expended, the money shall revert to the state
and be deposited in the Building Homes and Jobs Trust Fund for
the sole purpose of financing newly constructed housing units
affordable to extremely low, very low, or low-income households.

(C) If the court determines that its order or judgment has not
been carried out within 60 days, the court may issue further orders
as provided by law to ensure that the purposes and policies of this
section are fulfilled, including, but not limited to, an order to vacate
the decision of the local agency and to approve the housing
development project, in which case the application for the housing
development project, as proposed by the applicant at the time the
local agency took the initial action determined to be in violation
of this section, along with any standard conditions determined by
the court to be generally imposed by the local agency on similar
projects, shall be deemed to be approved unless the applicant
consents to a different decision or action by the local agency.

(2) For purposes of this subdivision, “housing organization”
means a trade or industry group whose local members are primarily
engaged in the construction or management of housing units or a
nonprofit organization whose mission includes providing or
advocating for increased access to housing for low-income
households and have filed written or oral comments with the local
agency prior to action on the housing development project. A
housing organization may only file an action pursuant to this
section to challenge the disapproval of a housing development by
a local agency. A housing organization shall be entitled to
reasonable attorney’s fees and costs if it is the prevailing party in
an action to enforce this section.

(4) If the court finds that the local agency (1) acted in bad faith
when it disapproved or conditionally approved the housing
development or emergency shelter in violation of this section and
failed to carry out the court’s order or judgment within 60 days as described in subdivision (k), the court, in addition to any other remedies provided by this section, shall multiply the fine determined pursuant to subparagraph (B) of paragraph (1) of subdivision (k) by a factor of five. For purposes of this section, “bad faith” includes, but is not limited to, an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (e) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency, unless the petitioner elects to prepare the record as provided in subdivision (n) of this section.

A petition to enforce the provisions of this section shall be filed and served no later than 90 days from the later of (1) the effective date of a decision of the local agency imposing conditions on, disapproving, or any other final action on a housing development project or (2) the expiration of the time periods specified in subparagraph (B) of paragraph (5) of subdivision (h). Upon entry of the trial court’s order, a party may, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow, or may appeal the judgment or order of the trial court under Section 904.1 of the Code of Civil Procedure. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner’s points and authorities, (2) by the respondent with respondent’s points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the
record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

(o) (1) Subject to paragraphs (2), (6), and (7), and subdivision (d) of Section 65941.1, a housing development project shall be subject only to the ordinances, policies, and standards adopted and in effect when a preliminary application including all of the information required by subdivision (a) of Section 65941.1 was submitted.

(2) Paragraph (1) shall not prohibit a housing development project from being subject to ordinances, policies, and standards adopted after the preliminary application was submitted pursuant to Section 65941.1 in the following circumstances:

(A) In the case of a fee, charge, or other monetary exaction, to an increase resulting from an automatic annual adjustment based on an independently published cost index that is referenced in the ordinance or resolution establishing the fee or other monetary exaction.

(B) A preponderance of the evidence in the record establishes that subjecting the housing development project to an ordinance, policy, or standard beyond those in effect when a preliminary application was submitted is necessary to mitigate or avoid a specific, adverse impact upon the public health or safety, as defined in subparagraph (A) of paragraph (1) of subdivision (j), and there is no feasible alternative method to satisfactorily mitigate or avoid the adverse impact.

(C) Subjecting the housing development project to an ordinance, policy, standard, or any other measure, beyond those in effect when a preliminary application was submitted is necessary to avoid or substantially lessen an impact of the project under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(D) The housing development project has not commenced construction within two and one-half years, or three and one-half years for an affordable housing project, following the date that the project received final approval. For purposes of this subparagraph:

(i) "Affordable housing project" means a housing development that satisfies both of the following requirements:

(1) Units within the development are subject to a recorded affordability restriction for at least 55 years.
(II) All of the units within the development, excluding managers’ units, are dedicated to lower income households, as defined by Section 50079.5 of the Health and Safety Code.

(ii) “Final approval” means that the housing development project has received all necessary approvals to be eligible to apply for, and obtain, a building permit or permits and either of the following is met:

(I) The expiration of all applicable appeal periods, petition periods, reconsideration periods, or statute of limitations for challenging that final approval without an appeal, petition, request for reconsideration, or legal challenge having been filed.

(II) If a challenge is filed, that challenge is fully resolved or settled in favor of the housing development project.

(E) The housing development project is revised following submittal of a preliminary application pursuant to Section 65941.1 such that the number of residential units or square footage of construction changes by 20 percent or more, exclusive of any increase resulting from the receipt of a density bonus, incentive, concession, waiver, or similar provision, including any other locally authorized program that offers additional density or other development bonuses when affordable housing is provided. For purposes of this subdivision, “square footage of construction” means the building area, as defined by the California Building Standards Code (Title 24 of the California Code of Regulations).

(3) This subdivision does not prevent a local agency from subjecting the additional units or square footage of construction that result from project revisions occurring after a preliminary application is submitted pursuant to Section 65941.1 to the ordinances, policies, and standards adopted and in effect when the preliminary application was submitted.

(4) For purposes of this subdivision, “ordinances, policies, and standards” includes general plan, community plan, specific plan, zoning, design review standards and criteria, subdivision standards and criteria, and any other rules, regulations, requirements, and policies of a local agency, as defined in Section 66000, including those relating to development impact fees, capacity or connection fees or charges, permit or processing fees, and other exactions.

(5) This subdivision shall not be construed in a manner that would lessen the restrictions imposed on a local agency, or lessen the protections afforded to a housing development project, that are
established by any other law, including any other part of this section.

(6) This subdivision shall not restrict the authority of a public agency or local agency to require mitigation measures to lessen the impacts of a housing development project under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(7) With respect to completed residential units for which the project approval process is complete and a certificate of occupancy has been issued, nothing in this subdivision shall limit the application of later-enacted ordinances, policies, and standards that regulate the use and occupancy of those residential units, such as ordinances relating to rental housing inspection, rent stabilization, restrictions on short-term renting, and business licensing requirements for owners of rental housing.

(8) (A) This subdivision shall apply to a housing development project that submits a preliminary application pursuant to Section 65941.1 before January 1, 2030.

(B) This subdivision shall become inoperative on January 1, 2034.

(p) This section shall be known, and may be cited, as the Housing Accountability Act.
Item B-5
The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City's location, economy, programs, and policies through the adoption of a Legislative Platform.

Assembly Bill 1551 (Santiago) - Planning and Zoning: Development Bonuses: Mixed-Use Projects (AB 1551) involves a policy matter that has a nexus to the City's adopted Legislative Platform language. Specifically, the following statements may apply to AB 1551:

- Oppose state legislation that supersedes a jurisdiction's adopted zoning ordinances.
- Oppose preemption of the City of Beverly Hills' local authority whether by state or federal legislation or ballot propositions.

At a prior City Council Liaison/Legislative/Lobby Committee ("Committee") meeting, the following questions were asked by the Committee members:

1. What are the specific set asides (% of units) and affordability levels that a developer would have to provide in order to qualify for the density bonus incentive?
2. What kind of bonuses would the developer get for 20% incentive under AB 1551?
3. What was the bill that created the law that expired and did the City take a position on that earlier measure?

The City's state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for AB 1551 to the City (Attachment 1) along with answers to these questions. The state lobbyist will also provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 1551, the Liaisons may recommend the following actions:

- Oppose AB 1551;
- Support AB 1551;
- Support if amended AB 1551;
- Oppose unless amended AB 1551;
- Remain neutral; or
- Provide other direction to City staff.

Should the Liaisons recommend a position of oppose, then staff will prepare a letter for the Mayor to sign as the legislation appears to be consistent with the City’s Legislative Platform. Any other positions recommended by the Liaisons will require the concurrence of the City Council and staff will place this item on a future City Council agenda.
Attachment 1
August 11, 2022

To: Cindy Owens, City of Beverly Hills

From: Andrew K. Antwih, Partner, Shaw Yoder Antwih Schmelzer & Lange
Priscilla Quiroz, Legislative Advocate, Shaw Yoder Antwih Schmelzer & Lange

Re: AB 1551 (Santiago) Planning and zoning: development bonuses: mixed-use projects

Version

As Amended and Revised in the Assembly on January 13, 2022.

Summary

This bill, until January 1, 2028, reinstates in its entirety the commercial development (density) bonus program for commercial properties that expired on January 1, 2022. Specifically, this bill:

1) Requires, when a commercial development agrees to partner with an affordable housing developer to construct a mixed-use project with housing located onsite, a local government, in addition to granting incentives and concessions under state Density Bonus Law (DBL), also grant the commercial developer exceptions resulting in significant costs reductions over the maximum allowable intensity in the general plan, zoning ordinance or regulation, including, but not limited to, floor area ratios and may include modification to development standards, such as height and parking requirements.

2) Contains a five-year sunset date of January 1, 2028.

3) Declares the development of affordable housing a matter of statewide concern and not a municipal affair, and therefore, this bill applies to all cities, including charter cities.

Background and Existing Law

In 1979, the Legislature enacted DBL to help address the affordable housing shortage and to encourage development of more low- and moderate-income housing units. Density bonus is a tool used by both market-rate and affordable housing developers to encourage the production of affordable housing. In return for inclusion of affordable units in a development, developers are given an increase
in density over a city's zoned density and concessions and incentives in order to offset the cost of the affordable units which will be offered at lower rent. Developers that seek a density bonus must agree to restrict very low- and low-income rental units to affordable levels for 55 years. Based on annual production reports local governments submit to the Department of Housing and Community Development (HCD), from 2018 through 2020, the density bonus program provided 880 units per year for lower-income households.
Questions From Legislative Lobby/Liaison Committee

1. What are the specific set asides (% of units) and affordability levels that a developer would have to provide in order to qualify for the density bonus incentive?

2. What kind of bonuses would the developer get for 20% incentive under AB 1551?

3. What was the bill that created the law that expired and did the City take a position on that earlier measure?

Responses to each question above can be found below:

Density bonus law. State law, known as density bonus law, grants certain benefits to developers who build affordable units in order to encourage greater affordable housing production. Density bonus law requires cities and counties to grant a density bonus when an applicant for a housing development of five or more units seeks and agrees to construct a project that will contain at least one of the following:

- 10 percent of the total units of a housing development for lower income households;
- 5 percent of the total units of a housing development for very low-income households;
- A senior citizen housing development or mobile home park;
- 10 percent of the units in a common interest development (CID) for moderate-income households;
- 10 percent of the total units for transitional foster youth, disabled veterans, or homeless persons; or
- **20 percent of the total units for lower income students in a student housing development.**

If a project meets one of these conditions, the city or county must allow an increase in density on a sliding scale from 20 percent to 50 percent over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan, depending on the percentage of affordable units.

Density bonus law also grants certain reductions in minimum parking requirements and grants “incentives or concessions” that can be used to waive development policies that add costs or reduce the number of units that a developer can build on a site. The number of incentives or concessions that a project may be eligible for is based on the percentage of affordable units contained in the project, up to a maximum of four. Incentives and
concessions can vary widely based on the individual projects, but examples can include reduced fees, waivers of zoning codes, or reduced parking requirements.

**Commercial Development Bonus.** AB 1934 (Santiago, 2016) created a commercial “development bonus” modeled after Density Bonus Law by similarly granting a number of incentives (including an increase in density) to a commercial developer that facilitates the creation of affordable housing units. Specifically, AB 1934 required a city or county to grant a commercial development bonus to a commercial developer that proposes to construct, donate land for, or partner with an affordable housing developer to construct affordable housing that consists of at least 30 percent low-income or 15 percent very low-income units. These housing units must be constructed on the site of the development or on a site that is all of the following:

- Within the boundaries of the local government;
- In close proximity to public amenities including schools and employment centers; and
- Located within one-half mile of a major transit stop

However, unlike Density Bonus Law, AB 1934 did not provide a specified formula regarding the incentives conferred upon the developer in return for provision of affordable housing. It also did not require the local government to provide clear guidance on the concessions and incentives available to the developer. Instead, the program relied on the commercial developer, residential developer, and local jurisdiction to come to mutual agreement on most of the details of the incentives, including the amount and type of bonus received and the amount and income levels of affordable housing developed.

**AB 1934 sunset on January 1, 2022.**

**NOTE:** The City of Beverly Hills did not take a position on AB 1934 (Santiago).

**California Housing Crisis.** The lack of supply is the primary factor underlying California’s housing crunch. HCD estimates that California needs to build 180,000 new homes a year to keep up with population growth. More recently, HCD noted in its statewide housing plan that California must plan for more than 2.5 million homes over the next eight-year cycle, and no less than one million of those homes must meet the needs of lower-income households. This represents more than double the housing planned for in the last eight-year cycle.

The median home price in California is $771,270 in 2022, which is double the nationwide median. It is second to Hawaii, and Washington is third with a median price of $592,400. In terms of rental markets, California has all 10 of the
top 10 most unaffordable counties for a two-bedroom apartment and holds eight of the top 10 most unaffordable metropolitan areas. In addition, almost half of rental households in California are low-income (50-80% AMI), very low income (30-50% AMI), or extremely low income (0-30% AMI). As a result, many Californians are rent burdened (spend more than 30% of their income on rent): almost 90% of extremely low income, 85% of very low income, and 63% of low income households.

According to the author, “AB 1551 will continue the progress made by AB 1934 in 2016 in addressing California’s affordable housing crisis. By requiring local governments to provide density bonuses to housing developers, California will increase the number of affordable units available and help the tens of thousands of people experiencing homelessness in our state. With the help of AB 1551, California will create more opportunities to build affordable housing and allow more time for interested parties to build an affordable housing supply to get people off the streets and into homes of their own.”

Given California’s high land and construction costs for housing, it is extremely difficult for the private market to provide housing units that are affordable to low- and even moderate-income households. Public subsidy is often required to fill the financial gap on affordable units. Density bonus law allows public entities to reduce or even eliminate subsidies for a particular project by allowing a developer to include more total units in a project than would otherwise be allowed by the local zoning in exchange for affordable units. Allowing more total units permits the developer to spread the cost of the affordable units more broadly over the market-rate units. The idea of density bonus law is to cover at least some of the financing gap of affordable housing with regulatory incentives, rather than additional subsidy. In 2020, HCD approved around 18,000 units, over 30% of which are for low or very low incomes, across 335 projects through Density Bonus Law.

This bill, and its predecessor (AB 1934 Santiago Chapter 747, Statutes of 2016), tries to create affordable housing through commercial developments. There are six bonuses a commercial developer can obtain, and three ways the developer can help finance affordable housing. Unlike residential density bonus law which has very clear criteria to follow to obtain benefits, this bill does not have clear guidelines as to what the commercial development gets for what it gives. Instead, the bonuses are mutually agreed upon by the developer and the jurisdiction. This lack of clarity may make it difficult for developers to try and gain these benefits if one has to negotiate them.

During the five years the program existed, there is not much evidence to suggest that it was widely utilized. AB 1934 required that local governments report use of this program to HCD as part of their annual progress reports. Data provided by HCD revealed that only five units of affordable housing had been created due to the program across three projects. It is unknown whether other projects statewide
used this program but the local government did not include the information in its annual progress report.

As of now, the program in this bill is exactly the same as the program that already exists. The author might want to investigate why developers have not used the program more widely and consider what changes to make so that the program is used more often.

**Status of Legislation**
The State Assembly approved AB 1551 (Santiago) is currently pending on the Senate Floor.

**Support**
California Apartment Association
California Housing Partnership Corporation
City of Santa Monica

**Opposition**
One individual
Attachment 2
An act to add and repeal Section 65915.7 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL’S DIGEST

AB 1551, as amended, Santiago. Planning and zoning: development bonuses: mixed-use projects.

Existing law, commonly referred to as the Density Bonus Law, requires a city or county to provide a developer that proposes a housing development within the city or county with a density bonus and other incentives or concessions, as specified, if the developer agrees to construct specified percentages of units for lower income, very low income, or senior citizen housing, among other things, and meets other requirements. Previously existing law, until January 1, 2022, required a city, county, or city and county to grant a commercial developer a development bonus, as specified, when an applicant for approval of a commercial development had entered into an agreement for partnered housing with an affordable housing developer to contribute affordable housing through a joint project or 2 separate projects encompassing affordable housing.

This bill would reenact the above-described provisions regarding the granting of development bonuses to certain projects. The bill would
require a city or county to annually submit to the Department of Housing and Community Development information describing an approved commercial development bonus. *The bill would repeal these provisions on January 1, 2028.* By adding to the duties of local planning officials, this bill would impose a state-mandated local program.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

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.


*The people of the State of California do enact as follows:*

SECTION 1. Section 65915.7 is added to the Government Code, to read:

65915.7. (a) When an applicant for approval of a commercial development has entered into an agreement for partnered housing described in subdivision (c) to contribute affordable housing through a joint project or two separate projects encompassing affordable housing, the city, county, or city and county shall grant to the commercial developer a development bonus as prescribed in subdivision (b). Housing shall be constructed on the site of the commercial development or on a site that is all of the following:

1. (1) Within the boundaries of the local government.
2. (2) In close proximity to public amenities including schools and employment centers.
3. (3) Located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code.

(b) The development bonus granted to the commercial developer shall mean incentives, mutually agreed upon by the developer and the jurisdiction, that may include, but are not limited to, any of the following:

1. (1) Up to a 20-percent increase in maximum allowable intensity in the General Plan.
(2) Up to a 20-percent increase in maximum allowable floor area ratio.

(3) Up to a 20-percent increase in maximum height requirements.

(4) Up to a 20-percent reduction in minimum parking requirements.

(5) Use of a limited-use/limited-application elevator for upper floor accessibility.

(6) An exception to a zoning ordinance or other land use regulation.

(c) For purposes of this section, the agreement for partnered housing shall be between the commercial developer and the housing developer, shall identify how the commercial developer will contribute affordable housing, and shall be approved by the city, county, or city and county.

(d) For purposes of this section, affordable housing may be contributed by the commercial developer in one of the following manners:

(1) The commercial developer may directly build the units.

(2) The commercial developer may donate a portion of the site or property elsewhere to the affordable housing developer for use as a site for affordable housing.

(3) The commercial developer may make a cash payment to the affordable housing developer that shall be used towards the costs of constructing the affordable housing project.

(e) For purposes of this section, subparagraph (A) of paragraph (3) of subdivision (c) of Section 65915 shall apply.

(f) Nothing in this section shall preclude any additional allowances or incentives offered to developers by local governments pursuant to law or regulation.

(g) If the developer of the affordable units does not commence with construction of those units in accordance with timelines ascribed by the agreement described in subdivision (c), the local government may withhold certificates of occupancy for the commercial development under construction until the developer has completed construction of the affordable units.

(h) In order to qualify for a development bonus under this section, a commercial developer shall partner with a housing developer that provides at least 30 percent of the total units for
low-income households or at least 15 percent of the total units for
very low-income households.

(i) Nothing in this section shall preclude an affordable housing
developer from seeking a density bonus, concessions or incentives,
waivers or reductions of development standards, or parking ratios
under Section 65915.

(j) A development bonus pursuant to this section shall not
include a reduction or waiver of the requirements within an
ordinance that requires the payment of a fee by a commercial
developer for the promotion or provision of affordable housing.

(k) A city or county shall submit to the Department of Housing
and Community Development, as part of the annual report required
by Section 65400, information describing a commercial
development bonus approved pursuant to this section, including
the terms of the agreements between the commercial developer
and the affordable housing developer, and the developers and the
local jurisdiction, and the number of affordable units constructed
as part of the agreements.

(l) For purposes of this section, “partner” means formation of
a partnership, limited liability company, corporation, or other entity
recognized by the state in which the commercial development
applicant and the affordable housing developer are each partners,
members, shareholders or other participants, or a contract or
agreement between a commercial development applicant and
affordable housing developer for the development of both the
commercial and the affordable housing properties.

(m) This section shall remain in effect only until January 1,
2028, and as of that date is repealed.

SEC. 2. The Legislature finds and declares that the development
of affordable housing is a matter of statewide concern and is not
a municipal affair as that term is used in Section 5 of Article XI
of the California Constitution. Therefore, Section 1 of this act
adding Section 65915.7 to the Government Code applies to all
cities, including charter cities.

SEC. 3. No reimbursement is required by this act pursuant to
Section 6 of Article XIII B of the California Constitution because
a local agency or school district has the authority to levy service
charges, fees, or assessments sufficient to pay for the program or
level of service mandated by this act, within the meaning of Section 17556 of the Government Code.
Item B-6
TO: City Council Liaison/Legislative/Lobby Committee  
FROM: Cynthia Owens, Policy and Management Analyst  
DATE: August 16, 2022  
SUBJECT: Assembly Bill 2147 (Ting) - Pedestrians  

ATTACHMENTS:  
1. Summary Memo – AB 2147  
2. Bill Text – AB 2147

The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City's location, economy, programs, and policies through the adoption of a Legislative Platform.

Assembly Bill 2147 (Ting) - Pedestrians (AB 2147) involves a policy matter that is not specifically addressed within the City Council adopted Legislative Platform language.

At a prior City Council Liaison/Legislative Lobby Committee (“Committee”) meeting, the Committee requested the City's state lobbyist, Shaw Yoder Antwi Schmelzer & Lange, to explore a new definition of jaywalking. The response is on page 5 of Attachment 1. The state lobbyist will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee on this bill on August 16.

After discussion of AB 2147, the Liaisons may recommend the following actions:
  • Oppose AB 2147;
  • Support AB 2147;
  • Support if amended AB 2147;
  • Oppose unless amended AB 2147;
  • Remain neutral; or
  • Provide other direction to City staff.

Any position recommended by the Liaisons will require the concurrence of the City Council and staff will place this item on a future City Council agenda.
Attachment 1
August 11, 2022

To: Cindy Owens, City of Beverly Hills

From: Andrew K. Antwih, Partner, Shaw Yoder Antwih Schmelzer & Lange
       Priscilla Quiroz, Legislative Advocate, Shaw Yoder Antwih Schmelzer & Lange

Re: AB 2147 (Ting) Pedestrians – Updated Memo

Summary

Prohibits a peace officer from stopping a pedestrian for specified traffic infractions generally related to “jaywalking” unless a reasonably careful person would realize there is an immediate danger of collision with a moving vehicle or other device moving exclusively by human power.

1) Provides that a peace officer shall not stop a pedestrian for a violation of numerous vehicle code sections relating to a pedestrian crossing a roadway unless a reasonably careful person would realize there is an immediate danger of a collision with a moving vehicle or other device moving exclusively by human power.

2) Specifies that the provisions of this bill do not relieve a pedestrian from the duty of using care for their safety or a bicyclist from the duty of exercising due care for the safety of any pedestrian.

3) Requires the Commissioner of the CHP to submit a report to the Legislature on or before January 1, 2028, regarding statewide pedestrian-related traffic crash data and any associated impacts to traffic safety, including an evaluation of whether and how the changes made by this bill have impacted pedestrian safety.

Background and Existing Law

Existing law requires drivers of a vehicle to yield the right-of-way to a pedestrians crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection. (Vehicle Code (VC) §21950 (a).)

Existing law prohibits a pedestrian from suddenly leaving a curb or other place of safety and walking or running into the path of a vehicle that is so close as to constitute an immediate hazard. The same provision prohibits a pedestrian from
unnecessarily stopping or delaying traffic while in a marked or unmarked crosswalk. (VC § 21950(b).)

Existing law provides that the driver of any motor vehicle, prior to driver over or upon any sidewalk, shall yield the right-of-way to any pedestrian approaching thereon. (VC §21952)

Existing law requires that pedestrians upon a roadway to yield the right-of-way to all vehicles on a highway or roadway so near as to constitute an immediate hazard. (VC §§21953, 21954.)

Existing law provides that between adjacent intersections controlled by traffic control signal devices or by police officers, pedestrians shall not cross the roadway at any place except in a crosswalk. (VC §21955.)

Existing law prohibits a pedestrian from walking upon a roadway outside of a business or residence district otherwise than close to the pedestrian's left-hand edge of the roadway. However, a pedestrian may walk close to their right-hand edge of the roadway if a crosswalk or other means of safely crossing the roadway is not available or if existing traffic or other conditions would compromise the safety of a pedestrian attempting to cross the road. (VC § 21956.)

Existing law prohibits a pedestrian from proceeding along a bicycle path or line where there is an adjacent adequate pedestrian facility. (VC § 21966.)

Existing law provides that a pedestrian facing a circular green traffic signal may proceed across the roadway but shall yield the right of way to vehicles lawfully within the intersection at the time that signal is first shown. (VC §21451(c).)

Existing law provides that a pedestrian facing a green arrow turn signal shall not enter the roadway, other than as specified. (VC §21451(d).)

Existing law provides that a pedestrian facing a circular yellow or yellow arrow signal, unless otherwise directed as specified, is, by that signal, warned that there is insufficient time to cross the roadway and shall not enter the roadway. (VC §21452(b).)

Existing law provides that a pedestrian facing a steady circular red or red arrow signal shall not enter the roadway. (VC §21453(d).)

Existing law provides that a pedestrian facing a “WALK” or “walking person” symbol may proceed across the roadway but must yield the right of way to vehicles lawfully within the intersection at the time the signal is first shown. (VC §21456(a).)
Existing law provides that a pedestrian facing a flashing “DON’T WALK,” “WAIT,” or “upraised hand” symbol may start to cross the roadway but must complete crossing prior to the display of a steady signal. (VC §21456(b).)

Existing law provides that a pedestrian facing a steady “DON’T WALK,” “WAIT,” or “upraised hand” symbol or a similar flashing symbol but without a countdown shall not start to cross the roadway, but any pedestrian who started crossing and partially completed crossing shall proceed to a sidewalk or safety zone or otherwise leave the roadway. VC §21456(c).)

Existing law provides that it is unlawful for any pedestrian to fail to obey any sign or signal erected or maintained to indicate or carry out the provisions of the Vehicle Code or local traffic ordinance. (VC §21461.5.)

Existing law provides that the driver of any vehicle, the person in charge of any animal, any pedestrian, and the motorman of any streetcar shall obey the instructions of any official traffic signal applicable to them and placed as provided by law, except under specified conditions. (VC §21462.)

Existing law specifies that local authorities are not prevented from adopting ordinances prohibiting pedestrians from crossing roadways at other than crosswalks. (VC §21961.)

AB 2147 (Ting) would prohibit the enforcement of 13 different vehicle code sections that deal with pedestrians crossing roadways, unless there is reason to believe that there is an immediate danger of collision with a moving vehicle, bicycle, etc.

Violations of these code sections are commonly referred to as “jaywalking.” The base fine for these code sections is either $25 or $35, depending on the specific violation. For example, entering the roadway at a crosswalk when the signal is showing a “don’t walk” sign carries a $25 base fine, while entering the roadway where there is no crosswalk would be a $35 violation. The base fine is generally deposited into the County and/or City General Fund.* With penalty fees and assessments, these fines result in a total payment amount of $197 and $238, respectively.

The following is how the $25/$35 fine is eventually assessed as $197/$238, and how those revenues are distributed among state and local funds:

- A $30/$40 State Penalty Assessment (divided between the State Penalty Fund, the County General Fund, and the Trial Court Improvement and Modernization Fund)
- A $21/$28 County Penalty Assessment (mostly deposited into the Courthouse Construction fund and the Criminal Justice Facilities Construction Fund, the remainder to various special funds)
- A $15/$20 Court Construction Penalty Assessment (deposited into the State Court Facilities Fund*)

*The County General Fund is used to fund various county services and programs.
• A $3/$4 Proposition 69 DNA Penalty Assessment (deposited into state and county DNA Identification Funds*)
• A $12/$16 DNA Identification Fund Penalty Assessment (deposited into the DNA Identification Fund*)
• A $6 Emergency Medical Services Penalty Assessment (deposited in the Maddy EMS Fund*)
• A $4 Emergency Medical Air Transportation Penalty Assessment (deposited into the Emergency Medical Air Transportation Fund*)
• A $40 Court Operations Assessment (deposited into the Trial Court Trust Fund)
• A $35 Conviction Assessment (deposited into State Court Facilities Construction Fund)
• A $1 Night Court Fee (deposited into the Night Court Session Fund)

*Each of these fines/fees/assessments additionally deposits a small amount, usually less than $.20 into the Trial Improvement and Modernization Fund.

In October 2021, the City of Beverly Hills joined key federal transportation agencies to celebrate National Pedestrian Safety Month. The City of Beverly Hills has initiated numerous projects aimed at improving the pedestrian safety, including:

• Installing additional “Leading Pedestrian Interval” (LPI) timing throughout City traffic lights which allow for pedestrians to get a four-second head start to begin crossing before drivers receive a green light, increasing visibility and prioritizing pedestrians in the crosswalk, like the provisions of AB 2264 (Bloom).
• Designing pedestrian crossing enhancements with curb extensions and flashing beacons throughout the city (construction to begin in 2022).
• Implementing the “Complete Streets Plan” and Metro’s “First and Last Mile Plans” to improve pedestrian access and wayfinding to the future D (Purple) Line Stations.
• Continuing the City’s “Neighborhood Slow Streets Program” which identifies neighborhoods throughout the city in which the entire street width can be utilized for walking, cycling and other modes of non-motorized transportation.
• Adding additional bike parking corrals which free up sidewalk space for improved pedestrian travel (the city has already added five new on-street bike parking corrals on South Beverly Drive).

Argument in Support
According to a letter submitted by the two sponsor groups and a coalition of 20 other groups supporting the measure:
AB 2147 would reform the state’s ‘jaywalking’ laws by preventing law enforcement from citing pedestrians unless “a reasonably careful person would realize there is an immediate danger of a collision.” It does not decriminalize all street crossings; law enforcement would still retain the authority to cite a person who is crossing when it is hazardous to do so. But for pedestrians crossing safely, AB 2147 would protect them from citations and the many collateral consequences that follow.

The Freedom to Walk Act is urgently needed because the state’s current approach results in highly unequal enforcement patterns. Black pedestrians, in particular, are subject to intolerably high rates of jaywalking enforcement, resulting in higher exposure to citations, fines and fees, and bench warrants, as well as police harassment and violence. Based on data from police departments in Long Beach, San Diego, and Bakersfield, we found that Black people were 5.18 times more likely to be cited for jaywalking than white people, proportional to their share of the population. Another study, in Sacramento, found that nearly 50% of jaywalking citations in 2016 were given to Black people, despite only 14% of the city’s population being Black. These disparities are reason enough to stop punishing safe street crossings.

To the extent that our laws need to signal to pedestrians what kind of activity is acceptable, AB 2147 sends a much more effective message than does existing law. While existing law allows law enforcement to cite people for all mid-block crossings—which is both unnecessary and unrealistic—AB 2147 focuses only on preventing hazardous street crossings, those where a risk of collision exists. The message sent by existing law is widely ignored—most Californians cross mid-block when it is safe and convenient to do so. AB 2147, on the other hand, sets commonsense, realistic, safety-based standards for enforcing pedestrian laws.

**Argument in Opposition**

According to the City of Thousand Oaks:
This bill would simply permit jaywalking. Although this bill seems harmless at best, crossing the street in non-designated areas constitutes reckless endangerment. Cities have traffic mechanisms in place such as crosswalks, signals, signage, and reflective stripping as a means to protect not only pedestrians but also bicyclists against the potential dangers of cars, trucks, and public transit. These mechanisms are to assure that both the pedestrians, especially children and drivers are not caught off guard from a potential collision. Unfortunately, during these types of accidents, pedestrians likely suffer the brunt of bodily injury and harm. Peace officers should still have the ability to stop a pedestrian and issue an infraction for the sake of deterring such behavior and protecting the public.

**Prior Discussion By Liaison/Legislative/Lobby Committee**

This committee heard AB 2147 (Ting) on March 8, 2022 and instructed our firm to explore a new definition of jaywalking for this bill. The Committee also explored an Oppose Unless Amended position, but ultimately directed our firm to come up with a definition of jaywalking that is more clear for purposes of the bill,
something that would relieve officers of the risk of having to make subjective
determinations when having to enforce this bill.

Since then, it has become clear that AB 2147 also requires CHP to submit a report
to the Legislature on or before January 1, 2028, regarding statewide pedestrian-
related traffic crash data and any associated impacts to traffic safety, including an
evaluation of whether and how the changes made by this bill have impacted
pedestrian safety.

We were able to develop a new definition for jaywalking, but we do recommend
that the City consider asking that CHP incorporate this question into the evaluation
that they are required to submit to the legislature under AB 2147 (Ting).

**Status of Legislation**
AB 2147 (Ting) approved (released from suspense) by the Senate Appropriations
Committee on August 11, 2022 and is currently headed to the Assembly Floor.

**Support**
Albany Strollers & Rollers
America Walks
California Environmental Voters
California Interfaith Power & Light
California Public Defenders Association
City of Berkeley
Circulate San Diego
Coalition for Sustainable Transportation
Day One
Disability Rights California
Ella Baker Center for Human Rights
Inland Empire Biking Alliance
Investing in Place
LA Forward
Los Angeles County Bicycle Coalition
Los Angeles Neighborhood Land Trust
Marin County Bicycle Coalition
National Association of Social Workers, California Chapter
Planning and Conservation League
Public Counsel
Prevention Institute
Public Counsel
Santa Barbara Bicycle Coalition
Santa Monica Safe Streets Alliance
Santa Monica
Spoke
Shasta Living Streets
Spur
Streets for All
**Opposition**
California State Sheriff’s Association
City of Thousand Oaks
Attachment 2
ASSEMBLY BILL No. 2147

Introduced by Assembly Members Ting and Friedman
(Coauthor: Assembly Member Haney)
(Coauthors: Senators Kamlager and Skinner)

February 15, 2022

An act to amend Sections 21451, 21452, 21453, 21456, 21461.5, 21462, 21950, 21953, 21954, 21955, 21956, 21961, and 21966 of, and to add and repeal Section 21949.5 of, the Vehicle Code, relating to pedestrians.

LEGISLATIVE COUNSEL’S DIGEST

AB 2147, as amended, Ting. Pedestrians.
Existing law imposes various duties relating to the rules of the road, including, but not limited to, traffic signs, symbols, and markings, and pedestrians’ rights and duties. Existing law prohibits pedestrians from entering roadways and crosswalks, except under specified circumstances. Under existing law, a violation of these provisions is an infraction. Existing law establishes procedures for peace officers to make arrests for violations of the Vehicle Code without a warrant for offenses committed in their presence, as specified.

This bill would prohibit a peace officer, as defined, from stopping a pedestrian for specified traffic infractions unless a reasonably careful person would realize there is an immediate danger of collision with a moving vehicle or other device moving exclusively by human power. The bill would require the Commissioner of the California Highway
Patrol, in consultation with the Institute of Transportation Studies at the University of California, Davis, to submit a report to the Legislature on or before January 1, 2028, regarding statewide pedestrian-related traffic crash data and any associated impacts to traffic safety, including an evaluation of whether and how the changes made by this bill have impacted pedestrian safety.


The people of the State of California do enact as follows:

SECTION 1. Section 21451 of the Vehicle Code is amended to read:

1451. (a) A driver facing a circular green signal shall proceed straight through or turn right or left or make a U-turn unless a sign prohibits a U-turn. Any driver, including one turning, shall yield the right-of-way to other traffic and to pedestrians lawfully within the intersection or an adjacent crosswalk.

(b) A driver facing a green arrow signal, shown alone or in combination with another indication, shall enter the intersection only to make the movement indicated by that green arrow or any other movement that is permitted by other indications shown at the same time. A driver facing a left green arrow may also make a U-turn unless prohibited by a sign. A driver shall yield the right-of-way to other traffic and to a pedestrian lawfully within the intersection or an adjacent crosswalk.

(c) A pedestrian facing a circular green signal, unless prohibited by sign or otherwise directed by a pedestrian control signal as provided in Section 21456, may proceed across the roadway within any marked or unmarked crosswalk, but shall yield the right-of-way to vehicles lawfully within the intersection at the time that signal is first shown.

(d) A pedestrian facing a green arrow turn signal, unless otherwise directed by a pedestrian control signal as provided in Section 21456, shall not enter the roadway.

(e) (1) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, shall not stop a pedestrian for a violation of subdivision (c) or (d) unless a reasonably careful person would realize there is an immediate
danger of a collision with a moving vehicle or other device moving
exclusively by human power.

(2) This subdivision does not relieve a pedestrian from the duty
of using due care for their safety.

(3) This subdivision does not relieve a driver of a vehicle from
the duty of exercising due care for the safety of any pedestrian
within the roadway.

SEC. 2. Section 21452 of the Vehicle Code is amended to read:

21452. (a) A driver facing a steady circular yellow or yellow
arrow signal is, by that signal, warned that the related green
movement is ending or that a red indication will be shown
immediately thereafter.

(b) A pedestrian facing a steady circular yellow or a yellow
arrow signal, unless otherwise directed by a pedestrian control
signal as provided in Section 21456, is, by that signal, warned that
there is insufficient time to cross the roadway and shall not enter
the roadway.

(c) (1) A peace officer, as defined in Chapter 4.5 (commencing
with Section 830) of Title 3 of Part 2 of the Penal Code, shall not
stop a pedestrian for a violation of subdivision (b) unless a
reasonably careful person would realize there is an immediate
danger of a collision with a moving vehicle or other device moving
exclusively by human power.

(2) This subdivision does not relieve a pedestrian from the duty
of using due care for their safety.

(3) This subdivision does not relieve a driver of a vehicle from
the duty of exercising due care for the safety of any pedestrian
within the roadway.

SEC. 3. Section 21453 of the Vehicle Code is amended to read:

21453. (a) A driver facing a steady circular red signal alone
shall stop at a marked limit line, but if none, before entering the
crosswalk on the near side of the intersection or, if none, then
before entering the intersection, and shall remain stopped until an
indication to proceed is shown, except as provided in subdivision
(b).

(b) Except when a sign is in place prohibiting a turn, a driver,
after stopping as required by subdivision (a), facing a steady
circular red signal, may turn right, or turn left from a one-way
street onto a one-way street. A driver making that turn shall yield
the right-of-way to pedestrians lawfully within an adjacent
crosswalk and to any vehicle that has approached or is approaching so closely as to constitute an immediate hazard to the driver, and shall continue to yield the right-of-way to that vehicle until the driver can proceed with reasonable safety.

(c) A driver facing a steady red arrow signal shall not enter the intersection to make the movement indicated by the arrow and, unless entering the intersection to make a movement permitted by another signal, shall stop at a clearly marked limit line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then before entering the intersection, and shall remain stopped until an indication permitting movement is shown.

(d) Unless otherwise directed by a pedestrian control signal as provided in Section 21456, a pedestrian facing a steady circular red or red arrow signal shall not enter the roadway.

(e) (1) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, shall not stop a pedestrian for a violation of subdivision (d) unless a reasonably careful person would realize there is an immediate danger of a collision with a moving vehicle or other device moving exclusively by human power.

(2) This subdivision does not relieve a pedestrian from the duty of using due care for their safety.

(3) This subdivision does not relieve a driver of a vehicle from the duty of exercising due care for the safety of any pedestrian within the roadway.

SEC. 4. Section 21456 of the Vehicle Code is amended to read:

21456. If a pedestrian control signal showing the words “WALK” or “WAIT” or “DON’T WALK” or other approved symbol is in place, the signal shall indicate as follows:

(a) A “WALK” or approved “Walking Person” symbol means a pedestrian facing the signal may proceed across the roadway in the direction of the signal, but shall yield the right-of-way to vehicles lawfully within the intersection at the time that signal is first shown.

(b) A flashing “DON’T WALK” or “WAIT” or approved “Upraised Hand” symbol with a “countdown” signal indicating the time remaining for a pedestrian to cross the roadway means a pedestrian facing the signal may start to cross the roadway in the direction of the signal but must complete the crossing prior to the
display of the steady “DON’T WALK” or “WAIT” or approved
“Upraised Hand” symbol when the “countdown” ends.
(c) A steady “DON’T WALK” or “WAIT” or approved
“Upraised Hand” symbol or a flashing “DON’T WALK” or
“WAIT” or approved “Upraised Hand” without a “countdown”
signal indicating the time remaining for a pedestrian to cross the
roadway means a pedestrian facing the signal shall not start to
cross the roadway in the direction of the signal, but any pedestrian
who started the crossing during the display of the “WALK” or
approved “Walking Person” symbol and who has partially
completed crossing shall proceed to a sidewalk or safety zone or
otherwise leave the roadway while the steady “WAIT” or “DON’T
WALK” or approved “Upraised Hand” symbol is showing.
(d) (1) A peace officer, as defined in Chapter 4.5 (commencing
with Section 830) of Title 3 of Part 2 of the Penal Code, shall not
stop a pedestrian for a violation of this section unless a reasonably
careful person would realize there is an immediate danger of a
collision with a moving vehicle or other device moving exclusively
by human power.
(2) This subdivision does not relieve a pedestrian from the duty
of using due care for their safety.
(3) This subdivision does not relieve a driver of a vehicle from
the duty of exercising due care for the safety of any pedestrian
within the roadway.
SEC. 5. Section 21461.5 of the Vehicle Code is amended to
read:
21461.5. (a) It shall be unlawful for any pedestrian to fail to
obey any sign or signal erected or maintained to indicate or carry
out the provisions of this code or any local traffic ordinance or
resolution adopted pursuant to a local traffic ordinance, or to fail
to obey any device erected or maintained pursuant to Section
21352.
(b) (1) A peace officer, as defined in Chapter 4.5 (commencing
with Section 830) of Title 3 of Part 2 of the Penal Code, shall not
stop a pedestrian for a violation of subdivision (a) unless a
reasonably careful person would realize there is an immediate
danger of a collision with a moving vehicle or other device moving
exclusively by human power.
(2) This subdivision does not relieve a pedestrian from the duty
of using due care for their safety.
This subdivision does not relieve a driver of a vehicle from the duty of exercising due care for the safety of any pedestrian within the roadway.

SEC. 6. Section 21462 of the Vehicle Code is amended to read:

21462. (a) The driver of a vehicle, the person in charge of an animal, a pedestrian, and the motorist of a streetcar shall obey the instructions of an official traffic signal applicable to them and placed as provided by law, unless otherwise directed by a police or traffic officer or when it is necessary for the purpose of avoiding a collision or in case of other emergency, subject to the exemptions granted by Section 21055.

(b) (1) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, shall not stop a pedestrian for a violation of subdivision (a) unless a reasonably careful person would realize there is an immediate danger of a collision with a moving vehicle or other device moving exclusively by human power.

(2) This subdivision does not relieve a pedestrian from the duty of using due care for their safety.

(3) This subdivision does not relieve a driver of a vehicle from the duty of exercising due care for the safety of any pedestrian within the roadway.

SEC. 7. Section 21949.5 is added to the Vehicle Code, to read:

21949.5. (a) On or before January 1, 2028, the Commissioner of the California Highway Patrol, in consultation with the Institute of Transportation Studies at the University of California, Davis, shall submit a report to the Legislature regarding statewide pedestrian-related traffic crash data and any associated impacts to traffic safety, including an evaluation of whether and how the changes made to this chapter and Article 3 (commencing with Section 21450) of Chapter 2 by the act that added this section have impacted pedestrian safety.

(b) (1) A report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(2) Pursuant to Section 10231.5 of the Government Code, this section is repealed on January 1, 2032.

SEC. 8. Section 21950 of the Vehicle Code is amended to read:

21950. (a) The driver of a vehicle shall yield the right-of-way to a pedestrian crossing the roadway within any marked crosswalk.

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or within any unmarked crosswalk at an intersection, except as otherwise provided in this chapter.

(b) This section does not relieve a pedestrian from the duty of using due care for their safety. No pedestrian may suddenly leave a curb or other place of safety and walk or run into the path of a vehicle that is so close as to constitute an immediate hazard. No pedestrian may unnecessarily stop or delay traffic while in a marked or unmarked crosswalk.

(c) The driver of a vehicle approaching a pedestrian within any marked or unmarked crosswalk shall exercise all due care and shall reduce the speed of the vehicle or take any other action relating to the operation of the vehicle as necessary to safeguard the safety of the pedestrian.

(d) Subdivision (b) does not relieve a driver of a vehicle from the duty of exercising due care for the safety of any pedestrian within any marked crosswalk or within any unmarked crosswalk at an intersection.

(e) (1) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, shall not stop a pedestrian for a violation of this section unless a reasonably careful person would realize there is an immediate danger of a collision with a moving vehicle or other device moving exclusively by human power.

(2) This subdivision does not relieve a pedestrian from the duty of using due care for their safety.

(3) This subdivision does not relieve a driver of a vehicle from the duty of exercising due care for the safety of any pedestrian within the roadway.

SEC. 9. Section 21953 of the Vehicle Code is amended to read:

21953. (a) Whenever any pedestrian crosses a roadway other than by means of a pedestrian tunnel or overhead pedestrian crossing, if a pedestrian tunnel or overhead crossing serves the place where the pedestrian is crossing the roadway, such pedestrian shall yield the right-of-way to all vehicles on the highway so near as to constitute an immediate hazard.

(b) This section shall not be construed to mean that a marked crosswalk, with or without a signal device, cannot be installed where a pedestrian tunnel or overhead crossing exists.

(c) (1) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, shall not
stop a pedestrian for a violation of subdivision (a) unless a reasonably careful person would realize there is an immediate danger of a collision with a moving vehicle or other device moving exclusively by human power.

(2) This subdivision does not relieve a pedestrian from the duty of using due care for their safety.

(3) This subdivision does not relieve a driver of a vehicle from the duty of exercising due care for the safety of any pedestrian within the roadway.

SEC. 10. Section 21954 of the Vehicle Code is amended to read:

21954. (a) Every pedestrian upon a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway so near as to constitute an immediate hazard.

(b) The provisions of this section shall not relieve the driver of a vehicle from the duty to exercise due care for the safety of any pedestrian upon a roadway.

(c) (1) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, shall not stop a pedestrian for a violation of subdivision (a) unless a reasonably careful person would realize there is an immediate danger of a collision with a moving vehicle or other device moving exclusively by human power.

(2) This subdivision does not relieve a pedestrian from the duty of using due care for their safety.

(3) This subdivision does not relieve a driver of a vehicle from the duty of exercising due care for the safety of any pedestrian within the roadway.

SEC. 11. Section 21955 of the Vehicle Code is amended to read:

21955. (a) Between adjacent intersections controlled by traffic control signal devices or by police officers, pedestrians shall not cross the roadway at any place except in a crosswalk.

(b) (1) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, shall not stop a pedestrian for a violation of subdivision (a) unless a reasonably careful person would realize there is an immediate danger of a collision with a moving vehicle or other device moving exclusively by human power.
(2) This subdivision does not relieve a pedestrian from the duty of using due care for their safety.

(3) This subdivision does not relieve a driver of a vehicle from the duty of exercising due care for the safety of any pedestrian within the roadway.

SEC. 12. Section 21956 of the Vehicle Code is amended to read:

21956. (a) A pedestrian shall not walk upon a roadway outside of a business or residence district otherwise than close to the pedestrian’s left-hand edge of the roadway.

(b) A pedestrian may walk close to their right-hand edge of the roadway if a crosswalk or other means of safely crossing the roadway is not available or if existing traffic or other conditions would compromise the safety of a pedestrian attempting to cross the road.

(c) (1) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, shall not stop a pedestrian for a violation of this section unless a reasonably careful person would realize there is an immediate danger of a collision with a moving vehicle or other device moving exclusively by human power.

(2) This subdivision does not relieve a pedestrian from the duty of using due care for their safety.

(3) This subdivision does not relieve a driver of a vehicle from the duty of exercising due care for the safety of any pedestrian within the roadway.

SEC. 13. Section 21961 of the Vehicle Code is amended to read:

21961. (a) This chapter does not prevent local authorities from adopting ordinances prohibiting pedestrians from crossing roadways at other than crosswalks.

(b) (1) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, shall not stop a pedestrian for a violation of an ordinance adopted by a local authority pursuant to this section, unless a reasonably careful person would realize there is an immediate danger of a collision with a moving vehicle or other device moving exclusively by human power.

(2) This subdivision does not relieve a pedestrian from the duty of using due care for their safety.
(3) This subdivision does not relieve a driver of a vehicle from the duty of exercising due care for the safety of any pedestrian within the roadway.

SEC. 14. Section 21966 of the Vehicle Code is amended to read:

21966. (a) A pedestrian shall not proceed along a bicycle path or lane where there is an adjacent adequate pedestrian facility.

(b) (1) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, shall not stop a pedestrian for a violation of subdivision (a) unless a reasonably careful person would realize there is an immediate danger of a collision with a moving vehicle or other device moving exclusively by human power.

(2) This subdivision does not relieve a pedestrian from the duty of using due care for their safety.

(3) This subdivision does not relieve a bicyclist from the duty of exercising due care for the safety of any pedestrian within the roadway.
Item B-7
TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: August 16, 2022
SUBJECT: Assembly Bill 1909 (Friedman) - Vehicles: bicycle omnibus bill
ATTACHMENT: 1. Summary Memo – AB 1909
               2. Bill Text – AB 1909

The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City’s location, economy, programs, and policies through the adoption of a Legislative Platform.

Assembly Bill 1909 (Friedman) - Vehicles: bicycle omnibus bill (AB 1909) involves a policy matter which may have a nexus to the City’s adopted Legislative Platform language. Specifically, the following statement may apply to this bill:

- Oppose preemption of the City of Beverly Hills’ local authority whether by state or federal legislation or ballot propositions

This bill was presented to the City Council Liaison/Legislative/Lobby Committee (“Committee”) on July 11 where the Committee recommended the City oppose this legislation as it was understood the City would not be able to prohibit electric bicycles on equestrian trails, hiking trails, recreational trails, bicycle paths, or bikeways. However, in reviewing the meeting, staff did not make it clear that in some instances the City would be able to pass an ordinance prohibiting certain electric bicycles from being on the bike paths. This was clearly covered in the memo on July 11 but not during the presentation. This item gives both staff and the state lobbyist an opportunity to clarify the impact on local control which may change the recommendation of the Committee.

The City’s state lobbyist, Shaw, Yoder, Antwih, Schmelzer & Lange, provided a summary memo for AB 1909 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 1909, the Liaisons may recommend the following actions:

1) Support AB 1909;
2) Support if amended AB 1909;
3) Oppose AB 1909;
4) Oppose unless amended AB 1909;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend a position of oppose, then staff will prepare a letter for the Mayor to sign as the legislation appears to be consistent with the City’s Legislative Platform. Any other positions recommended by the Liaisons will require the concurrence of the City Council and staff will place this item on the August 23, 2022 City Council agenda.
Attachment 1
July 1, 2022

To:      Cindy Owens, City of Beverly Hills

From:Andrew K. Antwih, Partner, Shaw Yoder Antwih Schmelzer & Lange
Priscilla Quiroz, Legislative Advocate, Shaw Yoder Antwih Schmelzer & Lange

Re:      AB 1909 (Friedman) Bicycle Transportation

Version
As Amended in the Senate on June 30, 2022

Summary
Makes comprehensive changes to provisions of current law regarding rules of the road and restrictions on bicycle operations. Specifically, this bill:

1) Removes provisions from current law which ban of class 3 electric bicycles on a bicycle path or trail, bikeway, bicycle lane, equestrian trail, or hiking or recreational trail.

2) Authorizes a local authority having jurisdiction over an equestrian trail or hiking or recreational trail to prohibit the operation of an electric bicycle of any class on that trail.

3) Eliminates local authority to ban class 1 and 2 electric bicycles on bike paths.

4) Allows bicyclists to follow leading pedestrian intervals at intersections.

5) Requires motor vehicle operators, when overtaking or passing a bicycle in the same direction, to move over a lane of traffic when possible.

6) Eliminates local authority to require bicycle registration.

Background and Existing Law
Existing law defines an electric bicycle as a bicycle equipped with fully operable pedals and an electric motor of less than 750 watts. Class 1 electric bicycles are pedal assist only, with no throttle, and have a maximum assisted speed of twenty mph. Class 2 electric bicycles also have a maximum speed of 20 mph but are throttle-assisted. Class 3 electric bicycles are pedal-assist and may include a throttle, and can reach a maximum assisted speed of twenty-eight mph.
Classes of bike paths. The California Department of Transportation provides the following guidance regarding Class I Bikeway (Bike Path) as defined in Chapter 100 of the Highway Design Handbook. Class I Bikeways are also defined in Section 890.4 of the Streets and Highways Code. Class I bike paths should serve corridors not served by streets and highways or where wide right of way exists, permitting such facilities to be constructed away from the influence of parallel streets. Bike paths should offer opportunities not provided by the road system. They can either provide a recreational opportunity, or in some instances, can serve as direct high-speed commute routes if cross flow by motor vehicles and pedestrian conflicts can be minimized. The most common applications are along rivers, ocean fronts, canals, utility right of way, and abandoned railroad right of way, within school campuses, or within and between parks. There may also be situations where such facilities can be provided as part of planned developments.

Class II bike lanes are established along streets in corridors where there is significant bicycle demand, and where there are distinct needs that can be served. The purpose should be to improve conditions for bicyclists in the corridors. Bike lanes are intended to delineate the right of way assigned to bicyclists and motorists and to provide for more predictable movements by each. However, a more important reason for constructing bike lanes is to better accommodate bicyclists through corridors where insufficient room exists for side-by-side sharing of existing streets by motorists and bicyclists.

AB 1909 amends current law that restricts the use of class 3 electric bicycles on Class I Bikeways. Additionally, it removes local control from regulating class 1 and 2 electric bicycle operation on a Class I Bikeways. Cyclists riding conventional bicycles can operate them at speeds similar to, or faster than class 1 or 2 electric bicycles (20 miles per hour). Class I Bikeways often have speed limit signs, indicating the speed for the bike path.

Leading pedestrian intervals. A leading pedestrian interval (LPI) is an official traffic control signal that advances the "WALK" signal for three to seven seconds while the red signal halting traffic continues to be displayed on parallel and through or turning traffic. This tool has gained in popularity to protect the safety of pedestrians. It allows for increased visibility of pedestrians as well as the opportunity to cross the street without being confronted by a vehicle. New York City conducted a pilot project where cyclists were able to take advantage of the LPI, increasing their visibility, allowing them to get out ahead of traffic and allowing them to avoid confrontation with vehicles making right-hand turns. The results of the study indicated that when cyclists used the LPI, injuries to cyclists decreased by over 26%.

AB 2264 (Bloom, 2022) is currently moving through the legislative process. The bill requires upon the first placement or replacement of a traffic control signal that the city or county include a leading pedestrian interval. The City of Beverly Hills currently has a Support If Amended position on AB 2264 (Bloom). The city would
like the bill to be amended to provide flexibility for the city to choose the intersections where leading pedestrian intervals would be installed.

AB 1909 (Friedman) permits bicyclists to follow leading pedestrian intervals at intersections, which has the potential to increase bicyclist safety.

Three Feet for Safety Act. The California Legislature passed the Three Feet for Safety Act as part of AB 1371 (Bradford, Chapter 331, Statutes of 2013). This act specifies that a driver of a motor vehicle shall not overtake or pass a bicycle proceeding in the same direction on a highway at less than three feet between any part of the motor vehicle and any part of the bicycle or its operator. If the vehicle operator is not able to provide three feet of clearance when passing a cyclist, they must slow to a reasonable and prudent speed. Law enforcement officials find this rule difficult to implement as officers must make a judgement call of the distance between the vehicle and the bicycle.

As written, AB 1909 amends the Three Feet for Safety Act by requiring motor vehicle operators to make a lane change into another available lane before overtaking or passing the bicycle. Thus, if a bicyclist were riding in a bike lane, all vehicles in the right lane would need to move to the left lane to comply with this bill. This change has the potential to increase last minute lane changes, which can be unsafe. Similarly, changing lanes has the potential to slow the flow of traffic in the lane closest to the bike lane which, in turn, could increase congestion.

California created a statewide bicycle registration program in 1974 (AB 3329-Bedham), where cities and local jurisdictions are authorized to collect registration fees from cyclists to officially license bicycles. Many local jurisdictions have found that revenue from registration fees have been insufficient to cover the cost of these local programs. Over time, fewer jurisdictions have established, and many have abandoned their local bicycle licensing programs.

AB 1909 removes local authorities from requiring bicycle registration, however, they may continue to operate bicycle registration programs on a volunteer basis.

**Legislative Status**
AB 1909 (Friedman) is currently pending on the Senate Floor and will be eligible to be taken up when the Legislature returns from Summer Recess on August 1, 2022.

**Support**
Active San Gabriel Valley
Alameda County Transportation Commission
California Association of Bicycling Organizations
California Bicycle Coalition
City of Thousand Oaks
Los Angeles County Bicycle Coalition
Motional
Move LA
National Resources Defense Council
Natural Resources Defense Council
Sierra Club
Streets for All

**Opposition**
Backcountry Horseman of California
Attachment 2
An act to amend Sections 21207.5, 21760, and 39002 of, and to
amend, repeal, and add Sections 21456 and 21456.2 of, the Vehicle
Code, relating to vehicles.

LEGISLATIVE COUNSEL’S DIGEST

Existing law generally regulates the operation of bicycles upon a
highway. A violation of these provisions, generally, is punishable as
an infraction.

(1) Existing law prohibits the operation of a motorized bicycle or a
class 3 electric bicycle on a bicycle path or trail, bikeway, bicycle lane,
equestrian trail, or hiking or recreational trail, as specified. Existing
law authorizes a local authority to additionally prohibit the operation
of class 1 and class 2 electric bicycles on these facilities.

This bill would remove the prohibition of class 3 electric bicycles on
these facilities and would instead authorize a local authority to prohibit
the operation of any electric bicycle or any class of electric bicycle on
an equestrian trail, or hiking or recreational trail. The bill would also
authorize the Department of Parks and Recreation to prohibit the

operation of an electric bicycle or any class of electric bicycle on any bicycle path or trail within the department’s jurisdiction.

(2) Existing law requires a vehicle at an intersection controlled by a traffic control signal, or traffic light, to stop or proceed as directed by the signal. Existing law makes these provisions applicable to pedestrians and bicycles, as specified. Under existing law, a pedestrian facing a solid red traffic control signal may enter the intersection if directed to do so by a pedestrian control signal displaying “WALK” or an approved “walking person” symbol.

This bill would, commencing January 1, 2024, extend this authorization to cross the intersection to a bicycle, unless otherwise directed by a bicycle control signal.

(3) Existing law requires the driver of a motor vehicle that is passing or overtaking a bicycle to do so in a safe manner, as specified, and in no case at a distance of less than 3 feet.

This bill would additionally require a vehicle that is passing or overtaking a bicycle to move over to an adjacent lane of traffic, as specified, if one is available, before passing or overtaking the bicycle.

(4) Existing law authorizes a local authority to adopt a bicycle licensing ordinance or resolution, as specified. Existing law authorizes a local authority that has adopted a bicycle licensing ordinance or resolution to prohibit a resident of that jurisdiction to operate a bicycle in a public place within the jurisdiction unless the bicycle is licensed.

This bill would instead prohibit a jurisdiction from requiring any bicycle operated within its jurisdiction to be licensed.

(5) By changing the existing elements of existing infractions, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(6) This bill would incorporate additional changes to Section 21456 of the Vehicle Code proposed by AB 2147 to be operative only if this bill and AB 2147 are both enacted and this bill is enacted last.

The people of the State of California do enact as follows:

SECTION 1. Section 21207.5 of the Vehicle Code is amended to read:

21207.5. (a) Notwithstanding Sections 21207 and 23127 of this code, or any other law, a motorized bicycle shall not be operated on a bicycle path or trail, bikeway, bicycle lane established pursuant to Section 21207, equestrian trail, or hiking or recreational trail, unless it is within or adjacent to a roadway or unless the local authority or the governing body of a public agency having jurisdiction over the path or trail permits, by ordinance, that operation.

(b) The local authority or governing body of a public agency having jurisdiction over an equestrian trail, or hiking or recreational trail, may prohibit, by ordinance, the operation of an electric bicycle or any class of electric bicycle on that trail.

(c) The Department of Parks and Recreation may prohibit the operation of an electric bicycle or any class of electric bicycle on any bicycle path or trail within the department’s jurisdiction.

SEC. 2. Section 21456 of the Vehicle Code is amended to read:

21456. (a) If a pedestrian control signal showing the words “WALK” or “WAIT” or “DON’T WALK” or other approved symbol is in place, the signal shall indicate as follows:

(1) A “WALK” or approved “Walking Person” symbol means a pedestrian facing the signal may proceed across the roadway in the direction of the signal, but shall yield the right-of-way to vehicles lawfully within the intersection at the time that signal is first shown.

(2) A flashing “DON’T WALK” or “WAIT” or approved “Upraised Hand” symbol with a “countdown” signal indicating the time remaining for a pedestrian to cross the roadway means a pedestrian facing the signal may start to cross the roadway in the direction of the signal, but must complete the crossing prior to the display of the steady “DON’T WALK” or “WAIT” or approved “Upraised Hand” symbol when the “countdown” ends.

(3) A steady “DON’T WALK” or “WAIT” or approved “Upraised Hand” symbol or a flashing “DON’T WALK” or
“WAIT” or approved “Upraised Hand” without a “countdown” signal indicating the time remaining for a pedestrian to cross the roadway means a pedestrian facing the signal shall not start to cross the roadway in the direction of the signal, but any pedestrian who started the crossing during the display of the “WALK” or approved “Walking Person” symbol and who has partially completed crossing shall proceed to a sidewalk or safety zone or otherwise leave the roadway while the steady “WAIT” or “DON’T WALK” or approved “Upraised Hand” symbol is showing.

(d) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 2.5. Section 21456 of the Vehicle Code is amended to read:

21456. (a) If a pedestrian control signal showing the words “WALK” or “WAIT” or “DON’T WALK” or other approved symbol is in place, the signal shall indicate as follows:

(1) A “WALK” or approved “Walking Person” symbol means a pedestrian facing the signal may proceed across the roadway in the direction of the signal, but shall yield the right-of-way to vehicles lawfully within the intersection at the time that signal is first shown.

(b) A flashing “DON’T WALK” or “WAIT” or approved “Upraised Hand” symbol with a “countdown” signal indicating the time remaining for a pedestrian to cross the roadway means a pedestrian facing the signal may start to cross the roadway in the direction of the signal but must complete the crossing prior to the display of the steady “DON’T WALK” or “WAIT” or approved “Upraised Hand” symbol when the “countdown” ends.

(c) A steady “DON’T WALK” or “WAIT” or approved “Upraised Hand” symbol or a flashing “DON’T WALK” or “WAIT” or approved “Upraised Hand” without a “countdown” signal indicating the time remaining for a pedestrian to cross the roadway means a pedestrian facing the signal shall not start to cross the roadway in the direction of the signal, but any pedestrian who started the crossing during the display of the “WALK” or approved “Walking Person” symbol and who has partially
completed crossing shall proceed to a sidewalk or safety zone or otherwise leave the roadway while the steady “WAIT” or “DON’T WALK” or approved “Upraised Hand” symbol is showing.

(b) (1) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, shall not stop a pedestrian for a violation of this section unless a reasonably careful person would realize there is an immediate danger of a collision with a moving vehicle or other device moving exclusively by human power.

(2) This subdivision does not relieve a pedestrian from the duty of using due care for their safety.

(3) This subdivision does not relieve a driver of a vehicle from the duty of exercising due care for the safety of any pedestrian within the roadway.

(c) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 3. Section 21456 is added to the Vehicle Code, to read:

21456. (a) If a pedestrian control signal showing the words “WALK” or “WAIT” or “DON’T WALK” or other approved symbol is in place, the signal shall indicate as follows:

(1) A “WALK” or approved “Walking Person” symbol means a pedestrian facing the signal may proceed across the roadway in the direction of the signal, but shall yield the right-of-way to vehicles lawfully within the intersection at the time that signal is first shown. Except as otherwise directed by a bicycle control signal described in Section 21456.3, the operator of a bicycle facing a pedestrian control signal displaying a “WALK” or approved “Walking Person” symbol may proceed across the roadway in the direction of the signal, but shall yield the right-of-way to any vehicles or pedestrians lawfully within the intersection.

(2) A flashing “DON’T WALK” or “WAIT” or approved “Upraised Hand” symbol with a “countdown” signal indicating the time remaining for a pedestrian to cross the roadway means a pedestrian facing the signal may start to cross the roadway in the direction of the signal, but must complete the crossing prior to the display of the steady “DON’T WALK” or “WAIT” or approved “Upraised Hand” symbol when the “countdown” ends.
(3) A steady “DON’T WALK” or “WAIT” or approved “Upraised Hand” symbol or a flashing “DON’T WALK” or “WAIT” or approved “Upraised Hand” without a “countdown” signal indicating the time remaining for a pedestrian to cross the roadway means a pedestrian facing the signal shall not start to cross the roadway in the direction of the signal, but any pedestrian who started the crossing during the display of the “WALK” or approved “Walking Person” symbol and who has partially completed crossing shall proceed to a sidewalk or safety zone or otherwise leave the roadway while the steady “WAIT” or “DON’T WALK” or approved “Upraised Hand” symbol is showing.

(b) This section shall become operative on January 1, 2024.

SEC. 3.5. Section 21456 is added to the Vehicle Code, to read:

21456. (a) If a pedestrian control signal showing the words “WALK” or “WAIT” or “DON’T WALK” or other approved symbol is in place, the signal shall indicate as follows:

(1) A “WALK” or approved “Walking Person” symbol means a pedestrian facing the signal may proceed across the roadway in the direction of the signal, but shall yield the right-of-way to vehicles lawfully within the intersection at the time that signal is first shown. Except as otherwise directed by a bicycle control signal described in Section 21456.3, the operator of a bicycle facing a pedestrian control signal displaying a “WALK” or approved “Walking Person” symbol may proceed across the roadway in the direction of the signal, but shall yield the right-of-way to any vehicles or pedestrians lawfully within the intersection.

(2) A flashing “DON’T WALK” or “WAIT” or approved “Upraised Hand” symbol with a “countdown” signal indicating the time remaining for a pedestrian to cross the roadway means a pedestrian facing the signal may start to cross the roadway in the direction of the signal, but must complete the crossing prior to the display of the steady “DON’T WALK” or “WAIT” or approved “Upraised Hand” symbol when the “countdown” ends.

(3) A steady “DON’T WALK” or “WAIT” or approved “Upraised Hand” symbol or a flashing “DON’T WALK” or “WAIT” or approved “Upraised Hand” without a “countdown” signal indicating the time remaining for a pedestrian to cross the roadway means a pedestrian facing the signal shall not start to
cross the roadway in the direction of the signal, but any pedestrian
who started the crossing during the display of the “WALK” or
approved “Walking Person” symbol and who has partially
completed crossing shall proceed to a sidewalk or safety zone or
otherwise leave the roadway while the steady “WAIT” or “DON’T
WALK” or approved “Upraised Hand” symbol is showing.

(b) (1) A peace officer, as defined in Chapter 4.5 (commencing
with Section 830) of Title 3 of Part 2 of the Penal Code, shall not
stop a pedestrian for a violation of this section unless a reasonably
careful person would realize there is an immediate danger of a
collision with a moving vehicle or other device moving exclusively
by human power.

(2) This subdivision does not relieve a pedestrian from the duty
of using due care for their safety.

(3) This subdivision does not relieve a driver of a vehicle from
the duty of exercising due care for the safety of any pedestrian
within the roadway.

(c) This section shall become operative on January 1, 2024.

SEC. 4. Section 21456.2 of the Vehicle Code is amended to
read:

21456.2. (a) Unless otherwise directed by a bicycle signal as
provided in Section 21456.3, an operator of a bicycle shall obey
the provisions of this article applicable to the driver of a vehicle.

(b) Whenever an official traffic control signal exhibiting
different colored bicycle symbols is shown concurrently with
official traffic control signals exhibiting different colored lights
or arrows, an operator of a bicycle facing those traffic control
signals shall obey the bicycle signals as provided in Section
21456.3.

(c) This section shall remain in effect only until January 1, 2024,
and as of that date is repealed.

SEC. 5. Section 21456.2 is added to the Vehicle Code, to read:

21456.2. (a) Unless otherwise directed by a bicycle signal as
provided in Section 21456.3, or as otherwise provided in
subdivision (a) of Section 2146, an operator of a bicycle shall
obey the provisions of this article applicable to the driver of a
vehicle.

(b) Whenever an official traffic control signal exhibiting
different colored bicycle symbols is shown concurrently with
official traffic control signals or pedestrian control signals

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exhibiting different colored lights or arrows, an operator of a
bicycle facing those traffic control signals shall obey the bicycle
signals as provided in Section 21456.3.
(c) This section shall become operative on January 1, 2024.
SEC. 6. Section 21760 of the Vehicle Code is amended to read:
21760. (a) This section shall be known and may be cited as
the Three Feet for Safety Act.
(b) The driver of a motor vehicle overtaking and passing a
bicycle that is proceeding in the same direction on a highway shall
pass in compliance with the requirements of this article applicable
to overtaking and passing a vehicle, and shall do so at a safe
distance that does not interfere with the safe operation of the
overtaken bicycle, having due regard for the size and speed of the
motor vehicle and the bicycle, traffic conditions, weather, visibility,
and the surface and width of the highway.
(c) A driver of a motor vehicle shall not overtake or pass a
bicycle proceeding in the same direction on a highway at a distance
of less than three feet between any part of the motor vehicle and
any part of the bicycle or its operator. The driver of a motor vehicle
overtaking or passing a bicycle that is proceeding in the same
direction and in the same lane of travel shall, if another lane of
traffic proceeding in the same direction is available, make a lane
change into another available lane with due regard for safety and
traffic conditions, if practicable and not prohibited by law, before
overtaking or passing the bicycle.
(d) If the driver of a motor vehicle is unable to comply with
subdivision (c), due to traffic or roadway conditions, the driver
shall slow to a speed that is reasonable and prudent, and may pass
only when doing so would not endanger the safety of the operator
of the bicycle, taking into account the size and speed of the motor
vehicle and bicycle, traffic conditions, weather, visibility, and
surface and width of the highway.
(e) (1) A violation of subdivision (b), (c), or (d) is an infraction
punishable by a fine of thirty-five dollars ($35).
(2) If a collision occurs between a motor vehicle and a bicycle
causing bodily injury to the operator of the bicycle, and the driver
of the motor vehicle is found to be in violation of subdivision (b),
(c), or (d), a two-hundred-twenty-dollar ($220) fine shall be
imposed on that driver.
SEC. 7. Section 39002 of the Vehicle Code is amended to read:
39002. (a) A city or county, which adopts a bicycle licensing
ordinance or resolution, shall not prohibit the operation of an
unlicensed bicycle.

(b) It is unlawful for any person to tamper with, destroy,
mutilate, or alter any license indicia or registration form, or to
remove, alter, or mutilate the serial number, or the identifying
marks of a licensing agency’s identifying symbol, on any bicycle
frame licensed under this division.

SEC. 8. Sections 2.5 and 3.5 of this bill incorporate
amendments to Section 21456 of the Vehicle Code proposed by
both this bill and Assembly Bill 2147. Those sections of this bill
shall only become operative if (1) both bills are enacted and
become effective on or before January 1, 2023, (2) each bill
amends Section 21456 of the Vehicle Code, and (3) this bill is
enacted after Assembly Bill 2147, in which case Sections 2 and 3
of this bill shall not become operative.

SEC. 9. No reimbursement is required by this act pursuant to
Section 6 of Article XIIIB of the California Constitution because
the only costs that may be incurred by a local agency or school
district will be incurred because this act creates a new crime or
infraction, eliminates a crime or infraction, or changes the penalty
for a crime or infraction, within the meaning of Section 17556 of
the Government Code, or changes the definition of a crime within
the meaning of Section 6 of Article XIIIB of the California
Constitution.
Item B-8
Verbal updates on legislative issues will be presented by the City's lobbyists.
Item B-9
The Legislative/Lobby Liaison Committee may request items related to the purview of the Committee be placed on the next agenda.