

AMENDED IN SENATE JUNE 16, 2016

AMENDED IN SENATE SEPTEMBER 4, 2015

AMENDED IN SENATE JULY 7, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 701

**Introduced by Assembly Member Members Cristina Garcia and
Eggman**
**(Coauthors: Assembly Members Bonilla, Bonta, Gatto, Gipson, Gomez,
Lopez, and Williams)**
(Coauthors: Senators Beall and Leyva)

February 25, 2015

An act to amend Sections ~~19817 and 19858~~ of the Business and Professions Code, and Sections ~~261, 261.5, 262, and 266c~~ of the Penal Code, relating to ~~gaming~~ sex crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 701, as amended, Cristina Garcia. ~~Gaming~~-Sex crimes: Rape. Existing law defines rape and spousal rape as an act of sexual intercourse accomplished under specified circumstances indicating lack of consent, force, or duress, as specified. Existing law defines unlawful sexual intercourse as an act of sexual intercourse with a person who is a minor, as specified. Existing law additionally makes it unlawful to induce a person to engage in sexual intercourse, sexual penetration, oral copulation, or sodomy when his or her consent is procured by false or fraudulent representation or pretense that is made with the intent to create fear, and which does induce fear, and that would cause a reasonable person in like circumstances to act contrary to the person's free will, and does cause the victim to so act.

This bill would change the definition of rape, spousal rape, and unlawful sexual intercourse to instead mean penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, under the specified conditions. The bill would also make it a crime to induce another person to engage in penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, when his or her consent is procured by false or fraudulent representation or pretense that is made with the intent to create fear, and which does induce fear, and that would cause a reasonable person in like circumstances to act contrary to the victim's free will, and does cause the victim to so act. By expanding the definition of a crime, 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.

~~Existing law, the Gambling Control Act, provides for the licensure and regulation of various legalized gambling activities and establishments by the California Gambling Control Commission and the investigation and enforcement of those activities and establishments by the Department of Justice. A willful violation of any provision of the act for which a penalty is not expressly provided, is punishable as a misdemeanor. Existing law requires the commission to establish a 10-member Gaming Policy Advisory Committee for the purpose of discussing matters of controlled gambling regulatory policy and other relevant gambling-related issues. The committee is composed of representatives of controlled gambling licensees and members of the general public in equal numbers.~~

~~This bill would increase the membership of the committee from 10 to 12 members, and would instead require the committee to be composed of 5 representatives of controlled gambling licensees, 5 members of the general public, and 2 representatives from the Department of Justice.~~

~~Under the act, a person is deemed unsuitable to hold a license to own a gambling establishment if the person, or any partner, officer, director, or shareholder of the person, has any financial interest in any business or organization that is engaged in a prohibited form of gambling, whether within or without this state, except as specified.~~

~~This bill would exempt from that provision a person or entity that has (1) held a license in good standing as an owner of a gambling establishment for at least 5 years as of January 1, 2015, (2) has notified the California Gambling Control Commission and the Department of Justice, has received commission approval, after completion of a background check conducted by the department, to obtain a financial interest in a business or organization within the United States that conducts lawful gambling outside of California that, if conducted within California, would be unlawful, (3) and has paid the commission and the department for the reasonable costs of the investigation and approval for obtaining the financial interest. The bill would require the commission to adopt necessary regulations addressing, at a minimum, mandatory periodic reporting to the department by a licensee regarding the ownership and operations of a business or organization within the United States that conducts lawful gambling outside of California that, if conducted in California, would be unlawful.~~

~~The bill would make it unlawful for any cross-promotion or marketing, as defined, to occur between the business or organization within the United States that conducts lawful gambling outside of California that, if conducted within California, would be unlawful, and the gambling establishment, as described. The bill would prohibit, among other things, a licensee, in connection with a business or organization that conducts lawful gambling outside of California that, if conducted within California, would be unlawful, from knowingly engaging in an activity or entering into an association that is unsuitable for the licensee because that activity or association poses an unreasonable threat to the control of gambling in this state. By creating a new crime, 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:~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 261 of the Penal Code is amended to
2 read:

1 261. (a) Rape is an act of ~~sexual intercourse~~ *penetration, no*
2 *matter how slight, of the vagina or anus with any body part or*
3 *object, or oral penetration by a sex organ of another person,*
4 accomplished with a person not the spouse of the ~~perpetrator,~~
5 *defendant, under any of the following circumstances:*

6 (1) ~~Where a person~~ *If the victim* is incapable, because of a mental
7 disorder or developmental or physical disability, of giving legal
8 consent, and this is known or reasonably should be known to the
9 ~~person committing the act.~~ *defendant.* Notwithstanding the
10 existence of a conservatorship pursuant to the provisions of the
11 Lanterman-Petris-Short Act (Part 1 (commencing with Section
12 5000) of Division 5 of the Welfare and Institutions Code), the
13 prosecuting attorney shall prove, as an element of the crime, that
14 a mental disorder or developmental or physical disability rendered
15 the ~~alleged~~ victim incapable of giving consent.

16 (2) ~~Where it~~ *If the act* is accomplished against a person's *the*
17 *victim's* will by means of force, violence, duress, menace, or fear
18 of immediate and unlawful bodily injury on the ~~person~~ *victim* or
19 another.

20 (3) ~~Where a person~~ *If the victim* is prevented from resisting by
21 any intoxicating or anesthetic substance, or any controlled
22 substance, and this condition was known, or reasonably should
23 have been known by the ~~accused.~~ *defendant.*

24 (4) ~~Where a person~~ *If the victim* is at the time unconscious of
25 the nature of the act, and this is known to the ~~accused.~~ *defendant.*
26 As used in this paragraph, "unconscious of the nature of the act"
27 means incapable of resisting because the victim meets any one of
28 the following conditions:

29 (A) Was unconscious or asleep.

30 (B) Was not aware, knowing, perceiving, or cognizant that the
31 act occurred.

32 (C) Was not aware, knowing, perceiving, or cognizant of the
33 essential characteristics of the act due to the ~~perpetrator's~~
34 *defendant's* fraud in fact.

35 (D) Was not aware, knowing, perceiving, or cognizant of the
36 essential characteristics of the act due to the ~~perpetrator's~~
37 *defendant's* fraudulent representation that the sexual penetration
38 served a professional purpose when it served no professional
39 purpose.

1 (5) ~~Where a person~~ *If a victim* submits under the belief that the
2 person committing the act is someone known to the victim other
3 than the ~~accused,~~ *defendant*, and this belief is induced by any
4 artifice, pretense, or concealment practiced by the ~~accused,~~
5 *defendant*, with intent to induce the belief.

6 (6) ~~Where~~ *If* the act is accomplished against the victim’s will
7 by threatening to retaliate in the future against the victim or any
8 other person, and there is a reasonable possibility that the
9 ~~perpetrator~~ *defendant* will execute the threat. As used in this
10 paragraph, “threatening to retaliate” means a threat to kidnap or
11 falsely imprison, or to inflict extreme pain, serious bodily injury,
12 or death.

13 (7) ~~Where~~ *If* the act is accomplished against the victim’s will
14 by threatening to use the authority of a public official to incarcerate,
15 arrest, or deport the victim or another, and the victim has a
16 reasonable belief that the ~~perpetrator~~ *defendant* is a public official.
17 As used in this paragraph, “public official” means a person
18 employed by a governmental agency who has the authority, as part
19 of that position, to incarcerate, arrest, or deport another. The
20 ~~perpetrator~~ *defendant* does not actually have to be a public official.

21 (b) As used in this section, “duress” means a direct or implied
22 threat of force, violence, danger, or retribution sufficient to coerce
23 a reasonable person of ordinary susceptibilities to perform an act
24 which otherwise would not have been performed, or acquiesce in
25 an act to which one otherwise would not have submitted. The total
26 circumstances, including the age of the victim, and his or her
27 relationship to the defendant, are factors to consider in appraising
28 the existence of duress.

29 (c) As used in this section, “menace” means any threat,
30 declaration, or act which shows an intention to inflict an injury
31 upon another.

32 *SEC. 2. Section 261.5 of the Penal Code is amended to read:*

33 261.5. (a) Unlawful sexual intercourse is an act of ~~sexual~~
34 ~~intereourse~~ *penetration, no matter how slight, of the vagina or*
35 *anus with any body part or object, or oral penetration by a sex*
36 *organ of another person, accomplished with a person who is not*
37 *the spouse of the* ~~perpetrator,~~ *defendant*, if the person is a minor.
38 For the purposes of this section, a “minor” is a person under ~~the~~
39 ~~age of~~ 18 years *of age* and an “adult” is a person who is at least
40 18 years of age.

1 (b) ~~Any person~~ *A defendant* who engages in an act of unlawful
2 sexual intercourse with a minor who is not more than three years
3 older or three years younger than the ~~perpetrator~~, *defendant*, is
4 guilty of a misdemeanor.

5 (c) ~~Any~~ *A* person who engages in an act of unlawful sexual
6 intercourse with a minor who is more than three years younger
7 than the ~~perpetrator~~ *defendant* is guilty of either a misdemeanor
8 or a felony, and shall be punished by imprisonment in a county
9 jail not exceeding one year, or by imprisonment pursuant to
10 subdivision (h) of Section 1170.

11 (d) ~~Any~~ *A* person 21 years of age or older who engages in an
12 act of unlawful sexual intercourse with a minor who is under 16
13 years of age is guilty of either a misdemeanor or a felony, and shall
14 be punished by imprisonment in a county jail not exceeding one
15 year, or by imprisonment pursuant to subdivision (h) of Section
16 1170 for two, three, or four years.

17 (e) (1) Notwithstanding any other provision of this section, an
18 adult who engages in an act of *unlawful* sexual intercourse with a
19 minor in violation of this section may be liable for civil penalties
20 in the following amounts:

21 (A) An adult who engages in an act of unlawful sexual
22 intercourse with a minor less than two years younger than the adult
23 is liable for a civil penalty not to exceed two thousand dollars
24 (\$2,000).

25 (B) An adult who engages in an act of unlawful sexual
26 intercourse with a minor at least two years younger than the adult
27 is liable for a civil penalty not to exceed five thousand dollars
28 (\$5,000).

29 (C) An adult who engages in an act of unlawful sexual
30 intercourse with a minor at least three years younger than the adult
31 is liable for a civil penalty not to exceed ten thousand dollars
32 (\$10,000).

33 (D) An adult over the age of 21 years who engages in an act of
34 unlawful sexual intercourse with a minor under 16 years of age is
35 liable for a civil penalty not to exceed twenty-five thousand dollars
36 (\$25,000).

37 (2) The district attorney may bring actions to recover civil
38 penalties pursuant to this subdivision. From the amounts collected
39 for each case, an amount equal to the costs of pursuing the action
40 shall be deposited with the treasurer of the county in which the

1 judgment was entered, and the remainder shall be deposited in the
 2 Underage Pregnancy Prevention Fund, which is hereby created in
 3 the State Treasury. Amounts deposited in the Underage Pregnancy
 4 Prevention Fund may be used only for the purpose of preventing
 5 underage pregnancy upon appropriation by the Legislature.

6 (3) In addition to any punishment imposed under this section,
 7 the judge may assess a fine not to exceed seventy dollars (\$70)
 8 against ~~any~~ a person who violates this section with the proceeds
 9 of this fine to be used in accordance with Section 1463.23. The
 10 court ~~shall, however,~~ shall take into consideration the defendant's
 11 ability to pay, and ~~no~~ a defendant shall *not* be denied probation
 12 because of his or her inability to pay the fine permitted under this
 13 subdivision.

14 *SEC. 3. Section 262 of the Penal Code is amended to read:*

15 262. (a) Rape of a person who is the spouse of the ~~perpetrator~~
 16 *defendant* is an act of ~~sexual intercourse~~ penetration, no matter
 17 *how slight, of the vagina or anus with any body part or object, or*
 18 *oral penetration by a sex organ of another person, accomplished*
 19 under any of the following circumstances:

20 (1) ~~Where it~~ *If the act* is accomplished against a ~~person's~~
 21 *victim's* will by means of force, violence, duress, menace, or fear
 22 of immediate and unlawful bodily injury on the ~~person~~ *victim* or
 23 another.

24 (2) ~~Where~~ *If a person* *victim* is prevented from resisting by any
 25 intoxicating or anesthetic substance, or any controlled substance,
 26 and this condition was known, or reasonably should have been
 27 known, by the ~~accused~~ *defendant*.

28 (3) ~~Where~~ *If a person is* *victim is*, at the ~~time~~ *time*, unconscious
 29 of the nature of the act, and this is known to the ~~accused~~ *defendant*.
 30 As used in this paragraph, "unconscious of the nature of the act"
 31 means incapable of resisting because the victim meets one of the
 32 following conditions:

33 (A) Was unconscious or asleep.

34 (B) Was not aware, knowing, perceiving, or cognizant that the
 35 act occurred.

36 (C) Was not aware, knowing, perceiving, or cognizant of the
 37 essential characteristics of the act due to the ~~perpetrator's~~
 38 *defendant's* fraud in fact.

39 (4) ~~Where~~ *If* the act is accomplished against the victim's will
 40 by threatening to retaliate in the future against the victim or any

1 other person, and there is a reasonable possibility that the
2 ~~perpetrator~~ *defendant* will execute the threat. As used in this
3 paragraph, “threatening to retaliate” means a threat to kidnap or
4 falsely imprison, or to inflict extreme pain, serious bodily injury,
5 or death.

6 (5) ~~Where~~ *If* the act is accomplished against the victim’s will
7 by threatening to use the authority of a public official to incarcerate,
8 arrest, or deport the victim or another, and the victim has a
9 reasonable belief that the ~~perpetrator~~ *defendant* is a public official.
10 As used in this paragraph, “public official” means a person
11 employed by a governmental agency who has the authority, as part
12 of that position, to incarcerate, arrest, or deport another. The
13 ~~perpetrator~~ *defendant* does not actually have to be a public official.

14 (b) As used in this section, “duress” means a direct or implied
15 threat of force, violence, danger, or retribution sufficient to coerce
16 a reasonable person of ordinary susceptibilities to perform an act
17 which otherwise would not have been performed, or acquiesce in
18 an act to which one otherwise would not have submitted. The total
19 circumstances, including the age of the ~~victim~~, *victim* and his or
20 her relationship to the defendant, are factors to consider in
21 apprising the existence of duress.

22 (c) As used in this section, “menace” means any threat,
23 declaration, or act that shows an intention to inflict an injury upon
24 another.

25 (d) If probation is granted upon conviction of a violation of this
26 section, the conditions of probation may include, in lieu of a fine,
27 one or both of the following requirements:

28 (1) That the defendant make payments to a battered women’s
29 shelter, up to a maximum of one thousand dollars (\$1,000).

30 (2) That the defendant reimburse the victim for reasonable costs
31 of counseling and other reasonable expenses that the court finds
32 are the direct result of the defendant’s offense.

33 For any order to pay a fine, make payments to a battered
34 women’s shelter, or pay restitution as a condition of probation
35 under this subdivision, the court shall make a determination of the
36 defendant’s ability to pay. In no event shall any order to make
37 payments to a battered women’s shelter be made if it would impair
38 the ability of the defendant to pay direct restitution to the victim
39 or court-ordered child support. ~~Where~~ *If* the injury to a married
40 person is caused in whole or in part by the criminal acts of his or

1 her spouse in violation of this section, the community property
 2 may not be used to discharge the liability of the offending spouse
 3 for restitution to the injured spouse, required by Section 1203.04,
 4 as operative on or before August 2, 1995, or Section 1202.4, or to
 5 a shelter for costs with regard to the injured spouse and dependents,
 6 required by this section, until all separate property of the offending
 7 spouse is exhausted.

8 *SEC. 4. Section 266c of the Penal Code is amended to read:*

9 266c. (a) Every person who induces any other person to
 10 engage in ~~sexual intercourse, sexual penetration, oral copulation,~~
 11 ~~or sodomy penetration, no matter how slight, of the vagina or anus~~
 12 ~~with any body part or object, or oral penetration by a sex organ~~
 13 ~~of another person, when his or her the victim's consent is procured~~
 14 by false or fraudulent representation or pretense that is made with
 15 the intent to create fear, and which does induce fear, and that would
 16 cause a reasonable person in like circumstances to act contrary to
 17 the person's free will, and does cause the victim to so act, is
 18 punishable by imprisonment in a county jail for not more than one
 19 year or in the state prison for two, three, or four years.

20 ~~As~~

21 (b) As used in this section, "fear" means the fear of physical
 22 injury or death to the ~~person~~ victim or to any relative of the ~~person~~
 23 victim or member of the ~~person's~~ victim's family.

24 *SEC. 5. No reimbursement is required by this act pursuant to*
 25 *Section 6 of Article XIII B of the California Constitution because*
 26 *the only costs that may be incurred by a local agency or school*
 27 *district will be incurred because this act creates a new crime or*
 28 *infraction, eliminates a crime or infraction, or changes the penalty*
 29 *for a crime or infraction, within the meaning of Section 17556 of*
 30 *the Government Code, or changes the definition of a crime within*
 31 *the meaning of Section 6 of Article XIII B of the California*
 32 *Constitution.*

33 ~~SECTION 1. Section 19817 of the Business and Professions~~
 34 ~~Code is amended to read:~~

35 ~~19817. The commission shall establish and appoint a Gaming~~
 36 ~~Policy Advisory Committee of 12 members. The committee shall~~
 37 ~~be composed of five representatives of controlled gambling~~
 38 ~~licensees, five members of the general public, and two members~~
 39 ~~from the department. The executive director shall, from time to~~
 40 ~~time, convene the committee for the purpose of discussing matters~~

1 of controlled gambling regulatory policy and any other relevant
2 gambling-related issue. The recommendations concerning gambling
3 policy made by the committee shall be presented to the
4 commission, but shall be deemed advisory and not binding on the
5 commission in the performance of its duties or functions. The
6 committee may not advise the commission on Indian gaming.

7 SEC. 2. Section 19858 of the Business and Professions Code
8 is amended to read:

9 19858. (a) Except as provided in subdivisions (b), (c), and (g),
10 a person shall be deemed to be unsuitable to hold a state gambling
11 license to own a gambling establishment if the person, or any
12 partner, officer, director, or shareholder of the person, has any
13 financial interest in any business or organization that is engaged
14 in any form of gambling prohibited by Section 330 of the Penal
15 Code, whether within or without this state.

16 (b) Subdivision (a) does not apply to a publicly traded racing
17 association, a qualified racing association, or any person who is
18 licensed pursuant to subdivision (b) or (c) of Section 19852.

19 (c) Subdivision (a) does not apply to a person or entity that
20 meets all of the following criteria:

21 (1) Holds a license in good standing as an owner of a gambling
22 establishment pursuant to this chapter for at least five years as of
23 January 1, 2015. For purposes of this subdivision, “good standing”
24 means that the owner’s state gambling license is not the subject
25 of outstanding allegations by the department for any violation of
26 the Gambling Control Act.

27 (2) Has notified the commission and the department and received
28 commission approval, after completion of a background check
29 conducted by the department, to obtain a financial interest in
30 another business or organization within the United States that
31 conducts lawful gambling outside of California that, if conducted
32 within California, would be unlawful. A licensee shall provide the
33 department with any information pertaining to the licensee’s
34 proposed participation in that business or organization as the
35 department may request. The commission shall not grant a
36 temporary approval under this section.

37 (3) Has paid the commission and the department for the
38 reasonable costs incurred by the commission and the department
39 for the investigation and approval to obtain the financial interest
40 described in paragraph (2).

1 ~~(d) It is unlawful for any cross-promotion or marketing to occur~~
2 ~~between the business or organization described in paragraph (2)~~
3 ~~of subdivision (c) and the gambling establishment described in~~
4 ~~paragraph (1) of subdivision (c). For purposes of this subdivision,~~
5 ~~“cross-promotion or marketing” means the offering to any~~
6 ~~customers of the gambling establishment anything of value related~~
7 ~~to visiting or gambling at the business or organization described~~
8 ~~in paragraph (2) of subdivision (c).~~

9 ~~(e) A licensee shall not, in connection with a business or~~
10 ~~organization described in paragraph (2) of subdivision (c),~~
11 ~~knowingly do any of the following:~~

12 ~~(1) Violate a foreign, federal, tribal, state, county, city, or~~
13 ~~township law, regulation, ordinance, or rule, or any equivalent~~
14 ~~thereof, concerning the conduct of gambling.~~

15 ~~(2) Fail to conduct the operation in accordance with the~~
16 ~~standards of honesty and integrity required for gambling in this~~
17 ~~state.~~

18 ~~(3) Engage in an activity or enter into an association that is~~
19 ~~unsuitable for a licensee because that activity or association does~~
20 ~~any of the following:~~

21 ~~(A) Poses an unreasonable threat to the control of gambling in~~
22 ~~this state.~~

23 ~~(B) Reflects or tends to reflect discredit or disrepute upon this~~
24 ~~state or gaming in this state.~~

25 ~~(C) Is contrary to the public policy of this state concerning~~
26 ~~gaming.~~

27 ~~(4) Engage in an activity or enter into an association that~~
28 ~~interferes with the ability of this state to collect all license fees~~
29 ~~imposed by this chapter.~~

30 ~~(5) Employ, contract with, or associate with, a person whom~~
31 ~~the commission has found guilty of cheating or to whom the~~
32 ~~commission has denied a gambling license, or finding of suitability,~~
33 ~~on the ground of unsuitability.~~

34 ~~(f) The commission shall adopt necessary regulations addressing,~~
35 ~~at a minimum, mandatory periodic reporting to the department by~~
36 ~~a licensee regarding the ownership and operations of a business~~
37 ~~or organization described in paragraph (2) of subdivision (c).~~

38 ~~(g) Subdivision (a) does not apply to a person who meets all of~~
39 ~~the following criteria:~~

1 ~~(1) The person is licensed or had an application to be licensed~~
2 ~~on file with the commission on or before February 1, 2013.~~

3 ~~(2) The person has a financial interest in a business or~~
4 ~~organization engaged in gambling prohibited by Section 330 of~~
5 ~~the Penal Code that was closed and was not engaged in prohibited~~
6 ~~gambling at the time the person was either licensed or had filed~~
7 ~~an application to be licensed with the commission.~~

8 ~~(3) The person has a financial interest in a gambling~~
9 ~~establishment that is located on any portion of, or contiguous to,~~
10 ~~the grounds on which a racetrack is or had been previously located~~
11 ~~and horserace meetings were authorized to be conducted by the~~
12 ~~California Horse Racing Board on or before January 1, 2012.~~

13 ~~(4) The grounds upon which the gambling establishment~~
14 ~~described in paragraph (3) is located are directly or indirectly~~
15 ~~owned by a racetrack limited partnership owner. For purposes of~~
16 ~~this paragraph, a “racetrack limited partnership owner” is defined~~
17 ~~as a limited partnership, or a number of related limited partnerships,~~
18 ~~that is or are at least 80 percent capitalized by limited partners that~~
19 ~~are an “institutional investor” as defined in subdivision (w) of~~
20 ~~Section 19805, an “employee benefit plan” as defined in Section~~
21 ~~1002(3) of Title 29 of the United States Code, or an investment~~
22 ~~company that manages a state university endowment.~~

23 ~~(h) Within three years of the date the closed business or~~
24 ~~organization reopens or becomes engaged in any form of gambling~~
25 ~~prohibited by Section 330 of the Penal Code, a person described~~
26 ~~in subdivision (g) shall either divest that person’s interest in the~~
27 ~~business or organization, or divest that person’s interest in the~~
28 ~~gambling enterprise or gambling establishment for which the~~
29 ~~person is licensed or has applied to be licensed by the commission.~~

30 ~~(i) A person described in subdivision (g) shall inform the~~
31 ~~commission within 30 days of the date on which a business or~~
32 ~~organization in which the person has a financial interest begins to~~
33 ~~engage in any form of gambling prohibited by Section 330 of the~~
34 ~~Penal Code.~~

35 ~~(j) During the three-year divestment period described in~~
36 ~~subdivision (h), it is unlawful for any cross-promotion or marketing~~
37 ~~to occur between the business or organization that is engaged in~~
38 ~~any form of gambling prohibited by Section 330 of the Penal Code~~
39 ~~and the gambling enterprise or gambling establishment described~~
40 ~~in paragraph (3) of subdivision (g). For purposes of this~~

1 subdivision, “cross-promotion or marketing” means the offering
2 to any customers of the gambling enterprise or gambling
3 establishment anything of value related to visiting or gambling at
4 the business or organization engaged in any form of gambling
5 prohibited by Section 330 of the Penal Code.

6 (k) ~~During the three-year divestment period described in~~
7 ~~subdivision (h), any funds used in connection with the capital~~
8 ~~improvement of the gambling enterprise or gambling establishment~~
9 ~~described in paragraph (3) of subdivision (g) shall not be provided~~
10 ~~from the gaming revenues of either the business or organization~~
11 ~~engaged in gaming prohibited under Section 330 of the Penal Code.~~

12 (l) ~~If, at the end of the three-year divestment period described~~
13 ~~in subdivision (h), any person described in subdivision (g) has not~~
14 ~~divested his or her interest in either the gambling enterprise or~~
15 ~~gambling establishment or the business or organization engaged~~
16 ~~in any form of gaming prohibited under Section 330 of the Penal~~
17 ~~Code, the prohibitions of Section 19858 as it read on January 1,~~
18 ~~2013, apply.~~

19 ~~SEC. 3. No reimbursement is required by this act pursuant to~~
20 ~~Section 6 of Article XIII B of the California Constitution because~~
21 ~~the only costs that may be incurred by a local agency or school~~
22 ~~district will be incurred because this act creates a new crime or~~
23 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
24 ~~for a crime or infraction, within the meaning of Section 17556 of~~
25 ~~the Government Code, or changes the definition of a crime within~~
26 ~~the meaning of Section 6 of Article XIII B of the California~~
27 ~~Constitution.~~

O