

AMENDMENTS TO SENATE BILL NO. 1196  
AS AMENDED IN SENATE MARCH 26, 2020

Amendment 1

In the heading, below line 1, insert:

**(Coauthor: Senator Chang)**

(Coauthors: Assembly Members Daly and Diep)

Amendment 2

In the title, strike out lines 1 and 2 and insert:

An act to amend Section 396 of the Penal Code, relating to price gouging.

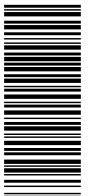
Amendment 3

On page 2, before line 1, insert:

SECTION 1. Section 396 of the Penal Code is amended to read:

396. (a) The Legislature hereby finds that during a state of emergency or local emergency, including, but not limited to, an earthquake, flood, fire, riot, storm, drought, plant or animal infestation or disease, pandemic or epidemic disease outbreak, or other natural or manmade disaster, some merchants have taken unfair advantage of consumers by greatly increasing prices for essential consumer goods and services. While the pricing of consumer goods and services is generally best left to the marketplace under ordinary conditions, when a declared state of emergency or local emergency results in abnormal disruptions of the market, the public interest requires that excessive and unjustified increases in the prices of essential consumer goods and services be prohibited. It is the intent of the Legislature in enacting this act to protect citizens from excessive and unjustified increases in the prices charged during or shortly after a declared state of emergency or local emergency for goods and services that are vital and necessary for the health, safety, and welfare of ~~consumers~~. consumers, whether those goods and services are offered or sold in person, in stores, or online. Further, it is the intent of the Legislature that this section be liberally construed so that its beneficial purposes may be served.

(b) Upon the proclamation of a state of emergency declared by the President of the United States or the Governor, or upon the declaration of a local emergency by an official, board, or other governing body vested with authority to make that declaration in any county, city, or city and county, and during the pendency of the designated emergency period and continuing for a period of 30 days following ~~that proclamation or declaration~~, the expiration of the period of emergency it is unlawful for a person, contractor, business, or other entity to sell or offer to sell any consumer food items or goods, goods or services used for emergency cleanup, emergency supplies, medical supplies, home heating oil, building materials, housing, transportation, freight, and storage services, or gasoline or other motor fuels for a price of more than 10 percent



greater than the prevailing price for that item or service offered by similarly situated sellers in the county during the three months immediately prior to the proclamation or declaration of the emergency, or the price charged by that person for those goods or services immediately prior to the proclamation or declaration of emergency, whichever is greater. However, a greater price increase is not unlawful if that person can prove that the increase in price was directly attributable to additional costs imposed on it by the supplier of the goods, or directly attributable to additional costs for labor or materials used to provide the services, during the state of emergency or local emergency, and the price is no more than 10 percent greater than the total of the cost to the seller plus the markup customarily applied by ~~the seller~~ that seller, or in the case of a seller who did not sell the goods or services prior to the emergency, 10 percent greater than the total of the cost to the seller plus the markup customarily applied by a similarly situated seller, for that good or service in the usual course of business immediately prior to the onset of the state of emergency or local emergency.

(c) Upon the proclamation of a state of emergency declared by the President of the United States or the Governor, or upon the declaration of a local emergency by an official, board, or other governing body vested with authority to make that declaration in any county, city, or city and county, and for a period of 180 days following that proclamation or declaration, it is unlawful for a contractor to sell or offer to sell any repair or reconstruction services or any services used in emergency cleanup for a price of more than 10 percent above the price charged by that person for those services immediately prior to the proclamation or declaration of emergency. However, a greater price increase is not unlawful if that person can prove that the increase in price was directly attributable to additional costs imposed on it by the supplier of the goods, or directly attributable to additional costs for labor or materials used to provide the services, during the state of emergency or local emergency, and the price represents no more than 10 percent greater than the total of the cost to the contractor plus the markup customarily applied by the contractor for that good or service in the usual course of business immediately prior to the onset of the state of emergency or local emergency.

(d) Upon the proclamation of a state of emergency declared by the President of the United States or the Governor, or upon the declaration of a local emergency by an official, board, or other governing body vested with authority to make that declaration in any county, city, or city and county, and for a period of 30 days following that proclamation or declaration, it is unlawful for an owner or operator of a hotel or motel to increase the hotel or motel's regular rates, as advertised immediately prior to the proclamation or declaration of emergency, by more than 10 percent. However, a greater price increase is not unlawful if the owner or operator can prove that the increase in price is directly attributable to additional costs imposed on it for goods or labor used in its business, to seasonal adjustments in rates that are regularly scheduled, or to previously contracted rates.

(e) Upon the proclamation of a state of emergency declared by the President of the United States or the Governor, or upon the declaration of a local emergency by an official, board, or other governing body vested with authority to make that declaration in any city, county, or city and county, and for a period of 30 days following that proclamation or declaration, or any period the proclamation or declaration is extended by the applicable authority, it is unlawful for any person, business, or other entity, to increase the rental price, as defined in paragraph (11) of subdivision (j), advertised,

offered, or charged for housing, to an existing or prospective tenant, by more than 10 percent. However, a greater rental price increase is not unlawful if that person can prove that the increase is directly attributable to additional costs for repairs or additions beyond normal maintenance that were amortized over the rental term that caused the rent to be increased greater than 10 percent or that an increase was contractually agreed to by the tenant prior to the proclamation or declaration. It shall not be a defense to a prosecution under this subdivision that an increase in rental price was based on the length of the rental term, the inclusion of additional goods or services, except as provided in paragraph (11) of subdivision (j) with respect to furniture, or that the rent was offered by, or paid by, an insurance company, or other third party, on behalf of a tenant. This subdivision does not authorize a landlord to charge a price greater than the amount authorized by a local rent control ordinance.

(f) It is unlawful for a person, business, or other entity to evict any residential tenant of residential housing after the proclamation of a state of emergency declared by the President of the United States or the Governor, or upon the declaration of a local emergency by an official, board, or other governing body vested with authority to make that declaration in any city, county, or city and county, and for a period of 30 days following that proclamation or declaration, or any period that the proclamation or declaration is extended by the applicable authority and rent or offer to rent to another person at a rental price greater than the evicted tenant could be charged under this section. It shall not be a violation of this subdivision for a person, business, or other entity to continue an eviction process that was lawfully begun prior to the proclamation or declaration of emergency.

(g) The prohibitions of this section may be extended for additional 30-day periods, as needed, by a local legislative body, local official, the Governor, or the Legislature, if deemed necessary to protect the lives, property, or welfare of the citizens.

(h) A violation of this section is a misdemeanor punishable by imprisonment in a county jail for a period not exceeding one year, or by a fine of not more than ten thousand dollars (\$10,000), or by both that fine and imprisonment.

(i) A violation of this section shall constitute an unlawful business practice and an act of unfair competition within the meaning of Section 17200 of the Business and Professions Code. The remedies and penalties provided by this section are cumulative to each other, the remedies under Section 17200 of the Business and Professions Code, and the remedies or penalties available under all other laws of this state.

(j) For the purposes of this section, the following terms have the following meanings:

(1) "State of emergency" means a natural or manmade emergency resulting from an earthquake, flood, fire, riot, storm, drought, plant or animal infestation or disease, pandemic or epidemic disease outbreak, or other natural or manmade disaster for which a state of emergency has been declared by the President of the United States or the Governor.

(2) "Local emergency" means a natural or manmade emergency resulting from an earthquake, flood, fire, riot, storm, drought, plant or animal infestation or disease, pandemic or epidemic disease outbreak, or other natural or manmade disaster for which a local emergency has been declared by an official, board, or other governing body vested with authority to make that declaration in any county, city, or city and county in California.

(3) “Consumer food item” means any article that is used or intended for use for food, drink, confection, or condiment by a person or animal.

(4) “Repair or reconstruction services” means services performed by any person who is required to be licensed under the Contractors’ State License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code), for repairs to residential or commercial property of any type that is damaged as a result of a disaster.

(5) “Emergency supplies” includes, but is not limited to, water, flashlights, radios, batteries, candles, blankets, soaps, diapers, temporary shelters, tape, toiletries, plywood, nails, and hammers.

(6) “Medical supplies” includes, but is not limited to, prescription and nonprescription medications, bandages, gauze, isopropyl alcohol, and antibacterial products.

(7) “Building materials” means lumber, construction tools, windows, and anything else used in the building or rebuilding of property.

(8) “Gasoline” means any fuel used to power any motor vehicle or power tool.

(9) “Transportation, freight, and storage services” means any service that is performed by any company that contracts to move, store, or transport personal or business property or that rents equipment for those purposes, including towing services.

(10) “Housing” means any rental housing with an initial lease term of no longer than one year, including, but not limited to, a space rented in a mobilehome park or campground.

(11) “Rental price” for housing means any of the following:

(A) For housing rented within one year prior to the time of the proclamation or declaration of emergency, the actual rental price paid by the tenant. For housing not rented at the time of the declaration or proclamation, but rented, or offered for rent, within one year prior to the proclamation or declaration of emergency, the most recent rental price offered before the proclamation or declaration of emergency. For housing rented at the time of the proclamation or declaration of emergency but which becomes vacant while the proclamation or declaration of emergency remains in effect and which is subject to any ordinance, rule, regulation, or initiative measure adopted by any local governmental entity that establishes a maximum amount that a landlord may charge a tenant for rent, the actual rental price paid by the previous tenant or the amount specified in subparagraph (B), whichever is greater. This amount may be increased by 5 percent if the housing was previously rented or offered for rent unfurnished, and it is now being offered for rent fully furnished. This amount shall not be adjusted for any other good or service, including, but not limited to, gardening or utilities currently or formerly provided in connection with the lease.

(B) For housing not rented and not offered for rent within one year prior to the proclamation or declaration of emergency, 160 percent of the fair market rent established by the United States Department of Housing and Urban Development. This amount may be increased by 5 percent if the housing is offered for rent fully furnished. This amount shall not be adjusted for any other good or service, including, but not limited to, gardening or utilities currently or formerly provided in connection with the lease.

(C) Housing advertised, offered, or charged, at a daily rate at the time of the declaration or proclamation of emergency, shall be subject to the rental price described in subparagraph (A), if the housing continues to be advertised, offered, or charged, at

a daily rate. Housing advertised, offered, or charged, on a daily basis at the time of the declaration or proclamation of emergency, shall be subject to the rental price in subparagraph (B), if the housing is advertised, offered, or charged, on a periodic lease agreement after the declaration or proclamation of emergency.

(D) For mobilehome spaces rented to existing tenants at the time of the proclamation or declaration of emergency and subject to a local rent control ordinance, the amount authorized under the local rent control ordinance. For new tenants who enter into a rental agreement for a mobilehome space that is subject to rent control but not rented at the time of the proclamation or declaration of emergency, the amount of rent last charged for a space in the same mobilehome park. For mobilehome spaces not subject to a local rent control ordinance and not rented at the time of the proclamation or declaration of emergency, the amount of rent last charged for the space.

(12) "Goods" has the same meaning as defined in subdivision (c) of Section 1689.5 of the Civil Code.

(k) This section does not preempt any local ordinance prohibiting the same or similar conduct or imposing a more severe penalty for the same conduct prohibited by this section.

(l) A business offering an item for sale at a reduced price immediately prior to the proclamation or declaration of the emergency may use the price at which it usually sells the item to calculate the price pursuant to subdivision (b) or (c).

(m) This section does not prohibit an owner from evicting a tenant for any lawful reason, including pursuant to Section 1161 of the Code of Civil Procedure.

SEC. 2. 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.

Amendment 4

On page 2, strike out lines 1 to 18, inclusive, and strike out pages 3 to 7, inclusive

PROPOSED AMENDMENTS TO SENATE BILL NO. 1196

AMENDED IN SENATE MARCH 26, 2020

SENATE BILL

No. 1196

**Introduced by Senator Umberg**  
**(Coauthor: Senator Chang)**  
*(Coauthors: Assembly Members Daly and Diep)*

February 20, 2020



RN2011076

Amendment 1

~~An act to amend Sections 2103 and 2155 of the Streets and Highways Code, relating to transportation.~~ *An act to amend Section 396 of the Penal Code, relating to price gouging.*

Amendment 2

LEGISLATIVE COUNSEL'S DIGEST

SB 1196, as amended, Umberg. ~~Highway Users Tax Account: payments.~~ *Price gouging.*

*Under existing law, upon the proclamation of a state of emergency, as defined, by the President of the United States or the Governor, or upon the declaration of a local emergency, as defined, by the executive officer of any county, city, or city and county, and for 30 days following the proclamation or declaration of emergency, it is a misdemeanor for a person, contractor, business, or other entity to sell or offer to sell certain goods or services for a price 10% greater than the price charged by that person immediately prior to the proclamation or declaration of emergency. Existing law makes a greater price increase lawful under these provisions if the person can prove that the increase in price was directly attributable to additional costs imposed on it by the supplier of the goods, or directly attributable to additional costs for the labor or materials used to provide the services, during the state of emergency or local emergency, and the price is no more than 10% greater than*

*the total of the cost to the seller plus the markup customarily applied by the seller.*

*This bill would instead make it a misdemeanor for a person, during the pendency of the emergency period and continuing for a period of 30 days following the expiration of the period of the emergency, to sell or offer to sell certain goods or services for a price 10% greater than the prevailing price for that item or service offered by similarly situated sellers in the county during the 3 months immediately prior to the proclamation or declaration of the emergency, or the price charged by that person immediately prior to the proclamation or declaration of emergency, whichever is greater. The bill would make a greater price lawful under these provisions if, in the case of a seller who did not sell the goods or services prior to the emergency, the price is only 10% greater than the total of the cost to the seller plus the markup customarily applied by a similarly situated seller. By expanding the scope of a crime, this bill would create 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 creates the Highway Users Tax Account, in which motor vehicle fuel tax and diesel fuel tax revenues are deposited and available for allocation to transportation purposes. Existing law requires the Controller, after certain transfers are made or actions are taken, to apportion or transfer, as applicable, at least 90% of the balance deposited to the credit of the Highway Users Tax Account by the 28th day of each month by the 2nd working day thereafter, except for June, in which case the apportionment or transfer is required to be made the same day, to, among others, cities and counties and the State Highway Account.~~

~~This bill instead would require the Controller, after certain transfers are made or actions are taken, to apportion or transfer, as applicable, at least 90% of the balance deposited in that account by the 28th day of each month by the 7th working day thereafter.~~

~~Existing law, with limited exceptions, requires each city and county to submit to the Controller a complete report of expenditures for street and road purposes by December 1 of each year relative to the preceding fiscal year ending on June 30. Existing law prohibits any state money from being allocated to, or made available for, expenditure for any~~

county or city at any time when the county or city is delinquent in filing this report.

~~This bill would require the Controller to appoint a qualified accountant to complete the report if the county or city is delinquent in filing the report by more than 30 days. The bill would require the county or city to provide the appointed accountant any information necessary to complete the report. The bill would require the Controller to deduct any costs incurred pursuant to these provisions from amounts paid to the county or city from the Highway Users Tax Account.~~

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

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

+ SECTION 1. Section 396 of the Penal Code is amended to read:

+ 396. (a) The Legislature hereby finds that during a state of emergency or local emergency, including, but not limited to, an earthquake, flood, fire, riot, storm, drought, plant or animal infestation or disease, *pandemic or epidemic disease outbreak*, or other natural or manmade disaster, some merchants have taken unfair advantage of consumers by greatly increasing prices for essential consumer goods and services. While the pricing of consumer goods and services is generally best left to the marketplace under ordinary conditions, when a declared state of emergency or local emergency results in abnormal disruptions of the market, the public interest requires that excessive and unjustified increases in the prices of essential consumer goods and services be prohibited. It is the intent of the Legislature in enacting this act to protect citizens from excessive and unjustified increases in the prices charged during or shortly after a declared state of emergency or local emergency for goods and services that are vital and necessary for the health, safety, and welfare of ~~consumers~~ consumers, *whether those goods and services are offered or sold in person, in stores, or online*. Further, it is the intent of the Legislature that this section be liberally construed so that its beneficial purposes may be served.

+ (b) Upon the proclamation of a state of emergency declared by the President of the United States or the Governor, or upon the declaration of a local emergency by an official, board, or other

**Amendment 3**



+ governing body vested with authority to make that declaration in  
+ any county, city, or city and county, and *during the pendency of*  
+ *the designated emergency period and continuing* for a period of  
+ 30 days following ~~that proclamation or declaration, the expiration~~  
+ *of the period of emergency* it is unlawful for a person, contractor,  
+ business, or other entity to sell or offer to sell any consumer food  
+ items or goods, goods or services used for emergency cleanup,  
+ emergency supplies, medical supplies, home heating oil, building  
+ materials, housing, transportation, freight, and storage services,  
+ or gasoline or other motor fuels for a price of more than 10 percent  
+ greater than the *prevailing price for that item or service offered*  
+ *by similarly situated sellers in the county during the three months*  
+ *immediately prior to the proclamation or declaration of the*  
+ *emergency, or the price charged by that person for those goods or*  
+ *services immediately prior to the proclamation or declaration of*  
+ ~~emergency.~~ *emergency, whichever is greater.* However, a greater  
+ price increase is not unlawful if that person can prove that the  
+ increase in price was directly attributable to additional costs  
+ imposed on it by the supplier of the goods, or directly attributable  
+ to additional costs for labor or materials used to provide the  
+ services, during the state of emergency or local emergency, and  
+ the price is no more than 10 percent greater than the total of the  
+ cost to the seller plus the markup customarily applied by ~~the seller~~  
+ *that seller, or in the case of a seller who did not sell the goods or*  
+ *services prior to the emergency, 10 percent greater than the total*  
+ *of the cost to the seller plus the markup customarily applied by a*  
+ *similarly situated seller, for that good or service in the usual course*  
+ of business immediately prior to the onset of the state of emergency  
+ or local emergency.

+ (c) Upon the proclamation of a state of emergency declared by  
+ the President of the United States or the Governor, or upon the  
+ declaration of a local emergency by an official, board, or other  
+ governing body vested with authority to make that declaration in  
+ any county, city, or city and county, and for a period of 180 days  
+ following that proclamation or declaration, it is unlawful for a  
+ contractor to sell or offer to sell any repair or reconstruction  
+ services or any services used in emergency cleanup for a price of  
+ more than 10 percent above the price charged by that person for  
+ those services immediately prior to the proclamation or declaration  
+ of emergency. However, a greater price increase is not unlawful

+ if that person can prove that the increase in price was directly  
+ attributable to additional costs imposed on it by the supplier of the  
+ goods, or directly attributable to additional costs for labor or  
+ materials used to provide the services, during the state of  
+ emergency or local emergency, and the price represents no more  
+ than 10 percent greater than the total of the cost to the contractor  
+ plus the markup customarily applied by the contractor for that  
+ good or service in the usual course of business immediately prior  
+ to the onset of the state of emergency or local emergency.

+ (d) Upon the proclamation of a state of emergency declared by  
+ the President of the United States or the Governor, or upon the  
+ declaration of a local emergency by an official, board, or other  
+ governing body vested with authority to make that declaration in  
+ any county, city, or city and county, and for a period of 30 days  
+ following that proclamation or declaration, it is unlawful for an  
+ owner or operator of a hotel or motel to increase the hotel or  
+ motel’s regular rates, as advertised immediately prior to the  
+ proclamation or declaration of emergency, by more than 10 percent.  
+ However, a greater price increase is not unlawful if the owner or  
+ operator can prove that the increase in price is directly attributable  
+ to additional costs imposed on it for goods or labor used in its  
+ business, to seasonal adjustments in rates that are regularly  
+ scheduled, or to previously contracted rates.

+ (e) Upon the proclamation of a state of emergency declared by  
+ the President of the United States or the Governor, or upon the  
+ declaration of a local emergency by an official, board, or other  
+ governing body vested with authority to make that declaration in  
+ any city, county, or city and county, and for a period of 30 days  
+ following that proclamation or declaration, or any period the  
+ proclamation or declaration is extended by the applicable authority,  
+ it is unlawful for any person, business, or other entity, to increase  
+ the rental price, as defined in paragraph (11) of subdivision (j),  
+ advertised, offered, or charged for housing, to an existing or  
+ prospective tenant, by more than 10 percent. However, a greater  
+ rental price increase is not unlawful if that person can prove that  
+ the increase is directly attributable to additional costs for repairs  
+ or additions beyond normal maintenance that were amortized over  
+ the rental term that caused the rent to be increased greater than 10  
+ percent or that an increase was contractually agreed to by the tenant  
+ prior to the proclamation or declaration. It shall not be a defense

+ to a prosecution under this subdivision that an increase in rental  
+ price was based on the length of the rental term, the inclusion of  
+ additional goods or services, except as provided in paragraph (11)  
+ of subdivision (j) with respect to furniture, or that the rent was  
+ offered by, or paid by, an insurance company, or other third party,  
+ on behalf of a tenant. This subdivision does not authorize a landlord  
+ to charge a price greater than the amount authorized by a local rent  
+ control ordinance.

+ (f) It is unlawful for a person, business, or other entity to evict  
+ any residential tenant of residential housing after the proclamation  
+ of a state of emergency declared by the President of the United  
+ States or the Governor, or upon the declaration of a local  
+ emergency by an official, board, or other governing body vested  
+ with authority to make that declaration in any city, county, or city  
+ and county, and for a period of 30 days following that proclamation  
+ or declaration, or any period that the proclamation or declaration  
+ is extended by the applicable authority and rent or offer to rent to  
+ another person at a rental price greater than the evicted tenant  
+ could be charged under this section. It shall not be a violation of  
+ this subdivision for a person, business, or other entity to continue  
+ an eviction process that was lawfully begun prior to the  
+ proclamation or declaration of emergency.

+ (g) The prohibitions of this section may be extended for  
+ additional 30-day periods, as needed, by a local legislative body,  
+ local official, the Governor, or the Legislature, if deemed necessary  
+ to protect the lives, property, or welfare of the citizens.

+ (h) A violation of this section is a misdemeanor punishable by  
+ imprisonment in a county jail for a period not exceeding one year,  
+ or by a fine of not more than ten thousand dollars (\$10,000), or  
+ by both that fine and imprisonment.

+ (i) A violation of this section shall constitute an unlawful  
+ business practice and an act of unfair competition within the  
+ meaning of Section 17200 of the Business and Professions Code.  
+ The remedies and penalties provided by this section are cumulative  
+ to each other, the remedies under Section 17200 of the Business  
+ and Professions Code, and the remedies or penalties available  
+ under all other laws of this state.

+ (j) For the purposes of this section, the following terms have  
+ the following meanings:

+ (1) “State of emergency” means a natural or manmade  
+ emergency resulting from an earthquake, flood, fire, riot, storm,  
+ drought, plant or animal infestation or disease, *pandemic or*  
+ *epidemic disease outbreak*, or other natural or manmade disaster  
+ for which a state of emergency has been declared by the President  
+ of the United States or the Governor.

+ (2) “Local emergency” means a natural or manmade emergency  
+ resulting from an earthquake, flood, fire, riot, storm, drought, plant  
+ or animal infestation or disease, *pandemic or epidemic disease*  
+ *outbreak*, or other natural or manmade disaster for which a local  
+ emergency has been declared by an official, board, or other  
+ governing body vested with authority to make that declaration in  
+ any county, city, or city and county in California.

+ (3) “Consumer food item” means any article that is used or  
+ intended for use for food, drink, confection, or condiment by a  
+ person or animal.

+ (4) “Repair or reconstruction services” means services  
+ performed by any person who is required to be licensed under the  
+ Contractors’ State License Law (Chapter 9 (commencing with  
+ Section 7000) of Division 3 of the Business and Professions Code),  
+ for repairs to residential or commercial property of any type that  
+ is damaged as a result of a disaster.

+ (5) “Emergency supplies” includes, but is not limited to, water,  
+ flashlights, radios, batteries, candles, blankets, soaps, diapers,  
+ temporary shelters, tape, toiletries, plywood, nails, and hammers.

+ (6) “Medical supplies” includes, but is not limited to,  
+ prescription and nonprescription medications, bandages, gauze,  
+ isopropyl alcohol, and antibacterial products.

+ (7) “Building materials” means lumber, construction tools,  
+ windows, and anything else used in the building or rebuilding of  
+ property.

+ (8) “Gasoline” means any fuel used to power any motor vehicle  
+ or power tool.

+ (9) “Transportation, freight, and storage services” means any  
+ service that is performed by any company that contracts to move,  
+ store, or transport personal or business property or that rents  
+ equipment for those purposes, including towing services.

+ (10) “Housing” means any rental housing with an initial lease  
+ term of no longer than one year, including, but not limited to, a  
+ space rented in a mobilehome park or campground.

- + (11) “Rental price” for housing means any of the following:
- + (A) For housing rented within one year prior to the time of the proclamation or declaration of emergency, the actual rental price paid by the tenant. For housing not rented at the time of the declaration or proclamation, but rented, or offered for rent, within one year prior to the proclamation or declaration of emergency, the most recent rental price offered before the proclamation or declaration of emergency. For housing rented at the time of the proclamation or declaration of emergency but which becomes vacant while the proclamation or declaration of emergency remains in effect and which is subject to any ordinance, rule, regulation, or initiative measure adopted by any local governmental entity that establishes a maximum amount that a landlord may charge a tenant for rent, the actual rental price paid by the previous tenant or the amount specified in subparagraph (B), whichever is greater. This amount may be increased by 5 percent if the housing was previously rented or offered for rent unfurnished, and it is now being offered for rent fully furnished. This amount shall not be adjusted for any other good or service, including, but not limited to, gardening or utilities currently or formerly provided in connection with the lease.
- + (B) For housing not rented and not offered for rent within one year prior to the proclamation or declaration of emergency, 160 percent of the fair market rent established by the United States Department of Housing and Urban Development. This amount may be increased by 5 percent if the housing is offered for rent fully furnished. This amount shall not be adjusted for any other good or service, including, but not limited to, gardening or utilities currently or formerly provided in connection with the lease.
- + (C) Housing advertised, offered, or charged, at a daily rate at the time of the declaration or proclamation of emergency, shall be subject to the rental price described in subparagraph (A), if the housing continues to be advertised, offered, or charged, at a daily rate. Housing advertised, offered, or charged, on a daily basis at the time of the declaration or proclamation of emergency, shall be subject to the rental price in subparagraph (B), if the housing is advertised, offered, or charged, on a periodic lease agreement after the declaration or proclamation of emergency.
- + (D) For mobilehome spaces rented to existing tenants at the time of the proclamation or declaration of emergency and subject

+ to a local rent control ordinance, the amount authorized under the  
+ local rent control ordinance. For new tenants who enter into a  
+ rental agreement for a mobilehome space that is subject to rent  
+ control but not rented at the time of the proclamation or declaration  
+ of emergency, the amount of rent last charged for a space in the  
+ same mobilehome park. For mobilehome spaces not subject to a  
+ local rent control ordinance and not rented at the time of the  
+ proclamation or declaration of emergency, the amount of rent last  
+ charged for the space.

+ (12) “Goods” has the same meaning as defined in subdivision  
+ (c) of Section 1689.5 of the Civil Code.

+ (k) This section does not preempt any local ordinance  
+ prohibiting the same or similar conduct or imposing a more severe  
+ penalty for the same conduct prohibited by this section.

+ (l) A business offering an item for sale at a reduced price  
+ immediately prior to the proclamation or declaration of the  
+ emergency may use the price at which it usually sells the item to  
+ calculate the price pursuant to subdivision (b) or (c).

+ (m) This section does not prohibit an owner from evicting a  
+ tenant for any lawful reason, including pursuant to Section 1161  
+ of the Code of Civil Procedure.

+ *SEC. 2. 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.*

1 ~~SECTION 1. Section 2103 of the Streets and Highways Code~~  
2 ~~is amended to read:~~

3 ~~2103. (a) Notwithstanding Section 13340 of the Government~~  
4 ~~Code, of the net revenues deposited to the credit of the Highway~~  
5 ~~Users Tax Account that are derived from the increases in the rates~~  
6 ~~of taxes that are imposed pursuant to subdivision (b) of Section~~  
7 ~~7360 and Section 7361.1 of the Revenue and Taxation Code, all~~  
8 ~~of the following shall occur on a monthly basis:~~

9 ~~(1) (A) By the 15th day of every month, the Treasurer’s office,~~  
10 ~~in consultation with the Department of Finance, shall notify the~~

Amendment 4

Page 2

Page 2 11 Controller of the amount of debt service that will be paid on each  
12 transportation bond during that month.

13 (B) Within two business days following the 28th day of each  
14 month, the Controller shall transfer to the Transportation Debt  
15 Service Fund an amount equal to the amount of monthly debt  
16 service paid by the General Fund on any bonds issued pursuant to  
17 the Seismic Retrofit Bond Act of 1996 (Chapter 12.48  
18 (commencing with Section 8879) of Division 1 of Title 2 of the

Page 3 1 Government Code) or any other bonds issued for highway or  
2 eligible guideway projects consistent with the requirements  
3 applicable to the expenditure of revenues under Article XIX of the  
4 California Constitution as identified by the Department of Finance  
5 pursuant to Section 16965 of the Government Code, and  
6 three-quarters of the amount of monthly debt service paid on any  
7 bonds issued pursuant to the Highway Safety, Traffic Reduction,  
8 Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49  
9 (commencing with Section 8879.20) of Division 1 of Title 2 of  
10 the Government Code) for reimbursement of the General Fund for  
11 these costs. If revenues available pursuant to this subdivision in  
12 any given month are insufficient to fully reimburse the General  
13 Fund for the debt service payments made, the first revenues  
14 available pursuant to this subdivision in the following month or  
15 months shall be transferred to the Transportation Debt Service  
16 Fund so that all debt service payments made on these bonds from  
17 the General Fund in a given fiscal year are fully reimbursed.  
18 Further transfers shall not be made pursuant to this subparagraph  
19 once the transfers for the months of July to October, inclusive, in  
20 2010 have been made. Any transfers made from the net revenues  
21 identified in this paragraph for highway and eligible guideway  
22 bond debt service for months after October 2010 shall be reversed  
23 and shall instead be made from weight fee revenues in the State  
24 Highway Account, as described in subparagraph (F).

26 (C) Beginning November 2, 2010, the Controller shall transfer  
27 to the State Highway Account within two business days following  
28 the 28th day of each month all of the monthly net revenues  
29 identified in subparagraph (B) that were designated for highway  
30 and eligible guideway bond debt service reimbursement but that  
31 have not been transferred, or that were transferred by means of a  
32 transfer that was reversed, pursuant to that subparagraph. To the  
33 extent the Controller has distributed any of those net revenues to

Page 3 34 cities and counties pursuant to subparagraph (C) of paragraph (3)  
 35 between November 2, 2010, and March 24, 2011, the Controller  
 36 shall subsequently reduce the amount transferred to cities and  
 37 counties on a monthly basis pursuant to subparagraph (C) of  
 38 paragraph (3) and shall instead transfer these funds to the State  
 39 Highway Account until all of the revenues that would otherwise  
 40 have been transferred to the State Highway Account on and after

Page 4 1 November 2, 2010, pursuant to this subparagraph have been so  
 2 transferred. For the 2011–12 fiscal year, the Controller shall  
 3 transfer to the State Highway Account within two business days  
 4 following the 28th day of each month an amount equal to the  
 5 weight fee revenues transferred to the Transportation Debt Service  
 6 Fund pursuant to subdivision (b) of Section 9400.4 of the Vehicle  
 7 Code, including forty-three million seven hundred thousand dollars  
 8 (\$43,700,000) authorized pursuant to Item 2660-013-0042 of  
 9 Section 2.00 of the Budget Act of 2011 and an amount equal to  
 10 weight fee revenues transferred to the General Fund as a loan  
 11 pursuant to subdivision (b) of Section 9400.4 of the Vehicle Code.  
 12 To the extent the Controller has distributed any of those revenues  
 13 to cities and counties pursuant to subparagraph (C) of paragraph  
 14 (3), the Controller shall subsequently reduce the amount transferred  
 15 to cities and counties on a monthly basis pursuant to subparagraph  
 16 (C) of paragraph (3) and instead transfer these funds to the State  
 17 Highway Account until all of the revenues that would otherwise  
 18 have been transferred to the State Highway Account in the 2011–12  
 19 fiscal year pursuant to this subparagraph have been so transferred.  
 20 (D) Notwithstanding subparagraph (C), commencing with the  
 21 2012–13 fiscal year and every fiscal year thereafter, the Controller  
 22 shall transfer to the State Highway Account within two business  
 23 days following the 28th day of each month an amount equal to the  
 24 amount of weight fee revenues transferred to the Transportation  
 25 Debt Service Fund for highway and eligible guideway bond debt  
 26 service and to the General Fund as a loan pursuant to subdivision  
 27 (e) of Section 9400.4 of the Vehicle Code.  
 28 (E) Beginning July 1, 2011, transfers made under subparagraphs  
 29 (C) and (D) during a fiscal year shall not exceed the annual revenue  
 30 generated from weight fees, as determined by Sections 9400.4 and  
 31 42205 of the Vehicle Code, at the rates in effect as of March 24,  
 32 2011, as determined by the Department of Finance.



Page 4 33 ~~(F) Any remaining amount of the highway or eligible guideway~~  
 34 ~~bond debt service reimbursement authorized by this paragraph that~~  
 35 ~~has not been made pursuant to subparagraph (B) on and after~~  
 36 ~~November 2, 2010, shall instead be made pursuant to Section~~  
 37 ~~9400.4 of the Vehicle Code from revenues in the State Highway~~  
 38 ~~Account derived from weight fees deposited in the account~~  
 39 ~~pursuant to subdivision (c) of Section 9400.1 and Section 42205~~  
 40 ~~of the Vehicle Code.~~

Page 5 1 (2) (A) ~~In the 2010-11 fiscal year, after the monthly transfer~~  
 2 ~~made pursuant to paragraph (1), the sum of fifty-four million one~~  
 3 ~~hundred sixty-seven thousand dollars (\$54,167,000) per month~~  
 4 ~~shall be held in the account for future appropriation by the~~  
 5 ~~Legislature.~~

6 (B) ~~Notwithstanding any other law, with respect to the monthly~~  
 7 ~~net revenues described in subparagraph (A), no further transfers~~  
 8 ~~of these revenues for the purpose of loans to the General Fund~~  
 9 ~~shall be made pursuant to Item 2660-011-0062 of Section 2.00 of~~  
 10 ~~the Budget Act of 2010 once the loan transfers for the months of~~  
 11 ~~July to October, inclusive, in 2010 have been made.~~  
 12 ~~Notwithstanding the loan repayment date specified in the~~  
 13 ~~provisional language for that item, the funds loaned shall be repaid~~  
 14 ~~by June 30, 2021. Any transfers made from the monthly net~~  
 15 ~~revenues in subparagraph (A) for months after October 2010 shall~~  
 16 ~~be reversed and shall instead be made from weight fee revenues~~  
 17 ~~in the State Highway Account, as described in subparagraph (D).~~  
 18 ~~The revenues from loan repayments shall be held in the Highway~~  
 19 ~~Users Tax Account for future appropriation by the Legislature.~~

20 (C) ~~Beginning November 2, 2010, all of the monthly net~~  
 21 ~~revenues described in subparagraph (A) shall instead be transferred~~  
 22 ~~by the Controller to the State Highway Account within two~~  
 23 ~~business days following the 28th day of each month. To the extent~~  
 24 ~~that the Controller has distributed any of the revenues identified~~  
 25 ~~in this paragraph to cities and counties pursuant to subparagraph~~  
 26 ~~(C) of paragraph (3) between October 14, 2010, and March 24,~~  
 27 ~~2011, the Controller shall subsequently reduce the amount~~  
 28 ~~transferred to cities and counties on a monthly basis pursuant to~~  
 29 ~~subparagraph (C) of paragraph (3) and shall instead transfer these~~  
 30 ~~funds to the State Highway Account until all of the revenues that~~  
 31 ~~would have been transferred to the General Fund as a loan pursuant~~  
 32 ~~to Item 2660-011-0062 of Section 2.00 of the Budget Act of 2010~~

Page 5 33 on and after November 2, 2010, have instead been transferred to  
34 the State Highway Account.

35 (D) Any remaining amount of the loans to the General Fund  
36 authorized pursuant to Item 2660-011-0062 of Section 2.00 of the  
37 Budget Act of 2010 that has not been made pursuant to  
38 subparagraph (B) on and after November 2, 2010, shall instead be  
39 made pursuant to Section 9400.4 of the Vehicle Code from  
40 revenues in the State Highway Account derived from weight fees  
Page 6 1 deposited in the account pursuant to subdivision (e) of Section  
2 9400.1 and Section 42205 of the Vehicle Code.

4 (3) The Controller shall transfer any remaining net revenues  
5 subject to this subdivision as follows:

6 (A) Forty-four percent shall be transferred to the State Highway  
7 Account to fund projects in the State Transportation Improvement  
8 Program that are consistent with Section 2 of Article XIX of the  
9 California Constitution.

12 (B) Twelve percent shall be transferred to the State Highway  
13 Account to fund projects in the State Highway Operation and  
14 Protection Program.

16 (C) Forty-four percent shall be apportioned by the Controller  
17 for local street and road purposes, except in the 2010-11 fiscal  
18 year, 50 percent shall be transferred for purposes of this  
19 subparagraph as follows:

20 (i) Fifty percent shall be apportioned by the Controller to cities,  
21 including a city and county, in the proportion that the total  
22 population of the city bears to the total population of all the cities  
23 in the state.

24 (ii) Fifty percent shall be apportioned by the Controller to  
25 counties, including a city and county, in accordance with the  
26 following formulas:

27 (I) Seventy-five percent shall be apportioned among the counties  
28 in the proportion that the number of fee-paid and exempt vehicles  
29 that are registered in the county bear to the number of fee-paid and  
30 exempt vehicles registered in the state.

31 (H) Twenty-five percent shall be apportioned among the counties  
32 in the proportion that the number of miles of maintained county  
33 roads in each county bear to the total number of miles of  
34 maintained county roads in the state. For purposes of apportioning  
35 funds under this subclause, any roads within the boundaries of a

Page 6 36 ~~city and county that are not state highways shall be deemed to be~~  
37 ~~county roads.~~  
38 ~~(b) After the transfers or other actions pursuant to subdivision~~  
39 ~~(a), at least 90 percent of the balance deposited to the credit of the~~  
40 ~~Highway Users Tax Account in the Transportation Tax Fund by~~  
Page 7 1 ~~the 28th day of each month shall be apportioned or transferred, as~~  
2 ~~applicable, by the Controller by the seventh working day thereafter.~~  
4 ~~These apportionments or transfers shall be made as provided for~~  
5 ~~in Sections 2104 to 2122, inclusive. If information is not available~~  
7 ~~to make the apportionment or transfer as required, the~~  
8 ~~apportionment or transfer shall be made on the basis of the~~  
9 ~~information of the previous month. Amounts not apportioned or~~  
10 ~~transferred shall be included in the apportionment or transfer of~~  
11 ~~the subsequent month.~~  
12 ~~(e) Notwithstanding any other law, the funds apportioned by~~  
13 ~~the Controller to cities and counties pursuant to subparagraph (C)~~  
14 ~~of paragraph (3) of subdivision (a) are not subject to Section 7104~~  
15 ~~or 7104.2 of the Revenue and Taxation Code. These funds may~~  
16 ~~be expended for any street and road purpose consistent with the~~  
17 ~~requirements of this chapter.~~  
18 ~~SEC. 2. Section 2155 of the Streets and Highways Code is~~  
19 ~~amended to read:~~  
20 ~~2155. (a) State money shall not be allocated to, or be made~~  
21 ~~available for, expenditure by any county or city at any time when~~  
22 ~~the county or city is delinquent in filing the report required pursuant~~  
23 ~~to Section 2151.~~  
24 ~~(b) If a county or city is delinquent in filing the report required~~  
25 ~~pursuant to Section 2151 by more than 30 days, the Controller~~  
26 ~~shall appoint a qualified accountant to complete the report. The~~  
27 ~~county or city shall provide to the appointed accountant any~~  
28 ~~information necessary to complete the report. The accountant shall~~  
29 ~~provide the report to the Controller and to the county or city.~~  
30 ~~(c) The Controller shall deduct from amounts paid to the county~~  
31 ~~or city from the Highway Users Tax Account any costs incurred~~  
32 ~~pursuant to subdivision (b), including, but not limited to,~~  
33 ~~contracting with, or employing a certified public accountant.~~

O