

AMENDMENTS TO ASSEMBLY BILL NO. 455
AS AMENDED IN ASSEMBLY MAY 20, 2021

Amendment 1

In the heading, in line 1, strike out “Member Wicks” and insert:

Members Wicks, Low, and Akilah Weber

Amendment 2

In the heading, between lines 1 and 2, insert:

(Principal coauthors: Senators Newman, Pan, and Wiener)

Amendment 3

In the heading, strike out lines 2 to 4, inclusive

Amendment 4

In the title, in line 1, strike out “amend Section 30918 of the Streets and Highways Code,”, strike out line 2 and insert:

add and repeal Section 52.8 of the Civil Code, to add and repeal Section 12940.4 of the Government Code, and to add and repeal Section 248.4 of the Labor Code, relating to COVID-19 vaccination requirements, and declaring the urgency thereof, to take effect immediately.

Amendment 5

On page 2, before line 1, insert:

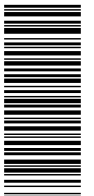
SECTION 1. (a) The Legislature finds and declares all of the following:

(1) On March 4, 2020, Governor Newsom declared a state of emergency in California due to the threat posed by the novel coronavirus (COVID-19) pandemic.

(2) On December 11, 2020, the United States Food and Drug Administration (FDA) issued the first emergency use authorization for the Pfizer-BioNTech COVID-19 vaccine, allowing the vaccine to be distributed in the United States. Since then, the FDA has authorized two additional vaccines for emergency use, the Moderna vaccine and the Janssen (Johnson & Johnson) vaccine.

(3) California is one of the most populous states in the nation, has the fifth largest economy in the world, and the largest economy in the United States.

(4) COVID-19 has already killed more than 64,000 people in California, and poses a grave threat to the people of this state and to the state economy as a whole.



(5) California continues to experience high rates of COVID-19 infections, despite efforts to limit the spread of the virus.

(6) Health experts have identified indoor spaces as potential COVID-19 infection hotspots.

(7) On March 4, 2021, the Department of Fair Employment and Housing published guidance entitled “Employment Information on COVID-19” and noted that, under the California Fair Employment and Housing Act (FEHA), an employer may require employees to receive a vaccination against COVID-19.

(b) The Legislature further finds and declares that this legislation, which would establish new proof-of-vaccination requirements for public establishments, as defined, and employment, is reasonable and necessary to address this monumental public health crisis and to protect the public health and well-being of the people of California.

SEC. 2. Section 52.8 is added to the Civil Code, to read:

52.8. (a) Notwithstanding any other law, an establishment, as defined in subdivision (b), shall require each person who is eligible to receive the COVID-19 vaccine, who seeks to enter the indoor facilities of that establishment, to show proof to an employee or authorized agent of the establishment that the person has been vaccinated against COVID-19.

(b) For purposes of this section, the following definitions apply:

(1) “Establishment” means any of the following that serve the public as a place of public accommodation:

(A) Any inn, hotel, motel, or other establishment that provides lodging to transient guests, other than an establishment located within a building that does not contain more than five rooms for rent or hire and that is actually occupied by the proprietor of that establishment as the proprietor’s residence.

(B) Any restaurant, bar, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food or beverages for consumption on the premises, including, but not limited to, any such facility located on the premises of any retail establishment or gasoline station.

(C) Any motion picture house, theater, concert hall, sports arena, stadium, gym, spa, or other place of exhibition or entertainment.

(D) Any establishment that is physically located within the premises of any establishment otherwise covered by this paragraph.

(E) Notwithstanding subparagraphs (A) to (D) inclusive, “establishment” does not include a place where food is served exclusively for takeout, curbside pickup, or consumption at another location and is not open to the public.

(2) “Proof” means valid documentation of the person’s COVID-19 vaccination record, which may be their vaccine card or a copy or a digital version thereof, as provided by their health care provider, the State Department of Public Health, or another state or federal agency.

(3) “Vaccinated against COVID-19” means that the person is fully vaccinated against COVID-19 by a vaccine authorized by the United States Food and Drug Administration or the World Health Organization.

(c) The requirement that a person be “vaccinated against COVID-19” pursuant to subdivision (a) does not apply to either of the following:

(1) A child who is ineligible to receive a COVID-19 vaccine due to the child’s age.

(2) A person who is ineligible to receive a COVID-19 vaccine due to a medical condition or disability that precludes the person from receiving a vaccination, subject to verification thereof, and in compliance with state and federal law, including the reasonable accommodation provisions of the federal Americans with Disabilities Act of 1990 (Public Law 101-336) and Title VII of the federal Civil Rights Act of 1964 (Public Law 88-352).

(d) (1) Proof of vaccination status required pursuant to this section shall be obtained in a manner that complies with federal and state privacy laws and shall not be retained by the establishment, unless the person authorizes the establishment to retain proof for subsequent entry into the indoor facilities of the establishment.

(2) An establishment, employee, or authorized agent of the establishment that obtains proof of vaccination status pursuant to this section shall not share, transfer, or sell that information with or to a third party.

(3) The Business, Consumer Services, and Housing Agency shall provide guidance to establishments on how to obtain and protect proof of vaccination information.

(e) The State Department of Public Health is authorized to develop and implement a mechanism for enforcing this section by November 1, 2021.

(f) The Attorney General, a district attorney, or a city attorney may bring a civil action for a violation of this section, including injunctive and other appropriate relief, and reasonable attorney's fees and costs.

(g) This section shall remain operative until the end, pursuant to Section 8629 of the Government Code, of the state of emergency proclaimed by the Governor on March 4, 2020, related to the COVID-19 pandemic, and as of that date is repealed.

SEC. 3. Section 12940.4 is added to the Government Code, to read:

12940.4. (a) (1) Notwithstanding any provision of this chapter or any other law, an employer or contracting party shall require each person who is an applicant for employment, an employee, or an independent contractor, and who is eligible to receive the COVID-19 vaccine, to show proof to the employer or contracting party or an authorized agent thereof, that the person has been vaccinated against COVID-19.

(2) (A) An employee or independent contractor who does not provide an employer with proof-of-vaccination status shall take a weekly COVID-19 test and shall provide the employer or contracting party with documentation of a negative COVID-19 test each week.

(B) Any COVID-19 tests required by this paragraph shall be provided through the employee's, applicant's, or independent contractor's existing health coverage plan, or through claims reimbursement for the uninsured through the United States Health Resources and Services Administration. For employees, applicants, or independent contractors that have a health coverage plan that does not cover COVID-19 screening testing, as required by this paragraph, the costs shall be covered through available federal, state, and local funds made available to health care providers.

(C) Employers and contracting parties shall not be required to compensate or provide additional leave time for an employee or independent contractor to take a weekly COVID-19 test pursuant to this paragraph.

(3) A public employer or contracting party shall meet and confer in good faith, as that term is defined in Section 3505, regarding acceptable proof of vaccination, accepted documentation of a negative COVID-19 test, locations of testing sites, and

other terms and conditions of employment with representatives of such recognized employee organizations, as defined in subdivision (b) of Section 3501, and shall consider fully such presentations as are made by the employee organization on behalf of its members prior to arriving at a determination of policy or course of action.

(b) For purposes of this section, the following definitions apply:

(1) "Proof" means documentation of the person's COVID-19 vaccination record, which may be their vaccine card or a copy or a digital version thereof, as provided by their health care provider, the State Department of Public Health, or another state or federal agency, that reasonably appears genuine and relates to the person required to show such proof.

(2) "Vaccinated against COVID-19" means that the person is fully vaccinated against COVID-19 by a vaccine authorized by the United States Food and Drug Administration or the World Health Organization.

(c) (1) The requirement that a person be "vaccinated against COVID-19" pursuant to subdivision (a) does not apply to a person who is ineligible to receive a COVID-19 vaccine due to a medical condition or disability that precludes the person from receiving a vaccination, subject to verification thereof, and in compliance with this chapter and other state and federal laws, including the reasonable accommodation provisions of the federal Americans with Disabilities Act of 1990 (Public Law 101-336) and Title VII of the federal Civil Rights Act of 1964 (Public Law 88-352).

(2) The requirement that a person be "vaccinated against COVID-19" pursuant to subdivision (a) does not apply to a person who does not physically enter the worksite owned or controlled by the employer for purpose of performing job duties.

(d) (1) Proof-of-vaccination status required pursuant to this section shall be obtained in a manner that complies with federal and state privacy laws and shall not be retained by the employer or contracting party, unless the person authorizes the employer or contracting party to retain proof.

(2) An employer, contracting party, or authorized agent that obtains proof-of-vaccination status pursuant to this section shall not share, transfer, or sell that information with or to a third party.

(3) The department shall provide guidance to employers and contracting parties on how to obtain and protect this information.

(e) (1) This section applies to both private and public employers and contracting parties.

(2) "Public employer," for purposes of this section, means:

(A) The state and every state entity, including, but not limited to, the Legislature, the judicial branch, and the California State University.

(B) A political subdivision of the state, or agency or instrumentality of the state or subdivision of the state, including, but not limited to, a city, county, city and county, charter city, charter county, school district, community college district, joint powers authority, joint powers agency, and any public agency, authority, board, commission, or district.

(f) To the extent allowable under state and federal law and any employment agreement or contract entered into on or after the effective date of this act, an employee who refuses to comply with this section may be subject to termination, and any independent contractor who refuses to comply with this section may be in breach of contract.

(g) (1) The Department of Fair Employment and Housing may bring a civil action for a violation of this section, including injunctive and other appropriate relief, and reasonable attorney's fees and costs.

(2) This section shall solely be enforced by the Department of Fair Employment and Housing.

(h) The Legislature finds and declares that protecting the public health and well-being of the people of California by requiring proof of vaccination against COVID-19 for employment pursuant to this section 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, this section applies to all cities, counties, and cities and counties, including charter cities.

(i) This section shall remain operative until the end, pursuant to Section 8629 of the Government Code, of the state of emergency proclaimed by the Governor on March 4, 2020, related to the COVID-19 pandemic, and as of that date is repealed.

SEC. 4. Section 248.4 is added to the Labor Code, to read:

248.4. (a) As used in this section:

(1) "COVID-19 vaccine supplemental paid sick leave" means paid sick leave provided pursuant to this section.

(2) "Employer" includes both private and public employers.

(3) "Public employer" means:

(A) The state and every state entity, including, but not limited to, the Legislature, the judicial branch, and the California State University.

(B) A political subdivision of the state, or agency or instrumentality of the state or subdivision of the state, including, but not limited to, a city, county, city and county, charter city, charter county, school district, community college district, joint powers authority, joint powers agency, and any public agency, authority, board, commission, or district.

(b) An employer shall provide COVID-19 vaccine supplemental paid sick leave to each employee as follows:

(1) COVID-19 vaccine supplemental paid sick leave shall be available to an employee if that employee is unable to work due to either of the following reasons:

(A) The employee is attending an appointment to receive a vaccine for protection against contracting COVID-19.

(B) The employee is experiencing symptoms related to a COVID-19 vaccine.

(2) An employee shall be entitled to the following number of hours of COVID-19 vaccine supplemental paid sick leave:

(A) An employee is entitled to 24 hours of COVID-19 vaccine supplemental paid sick leave.

(B) COVID-19 vaccine supplemental paid sick leave to which an employee is entitled pursuant to this section shall be in addition to any paid sick leave that may be available to the employee under any other law.

(c) An employee may determine how many hours of COVID-19 vaccine supplemental paid sick leave to use, up to the total number of hours to which the employee is entitled pursuant to subparagraph (A). The COVID-19 vaccine supplemental paid sick leave is available for immediate use by the employee.

(3) Each hour of COVID-19 vaccine supplemental paid sick leave shall be compensated at the regular rate of pay to which the employee would be entitled if the

employee had been scheduled to work those hours pursuant to existing law or an applicable collective bargaining agreement.

(4) An employee shall not be required to use any other paid or unpaid leave before the employee uses COVID-19 vaccine supplemental paid sick leave or in lieu of COVID-19 vaccine supplemental paid sick leave.

(d) The Legislature finds and declares that protecting the public health and well-being of the people of California by providing COVID-19 supplemental paid sick leave for all employees pursuant to this section 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, this section applies to all cities, counties, and cities and counties, including charter cities.

(e) This section shall remain operative until the end, pursuant to Section 8629 of the Government Code, of the state of emergency proclaimed by the Governor on March 4, 2020, related to the COVID-19 pandemic, and as of that date is repealed.

SEC. 5. Nothing in this act supersedes existing state public health orders applicable to public employees relating to the COVID-19 pandemic, including, but not limited to, all of the following:

(a) State Department of Public Health State Public Health Officer Order of July 26, 2021 (Health Care Worker Protections in High-Risk Settings).

(b) State Department of Public Health State Public Health Officer Order of August 5, 2021 (Requirements for Visitors in Acute Health Care and Long-Term Care Settings).

(c) State Department of Public Health State Public Health Officer Order of August 5, 2021 (Health Care Worker Vaccine Requirement).

(d) State Department of Public Health State Public Health Officer Order of August 11, 2021 (Vaccine Verification for Workers in Schools).

(e) State Department of Public Health State Public Health Officer Order of August 19, 2021 (State and Local Correctional Facilities and Detention Centers Health Care Worker Vaccination Requirement).

SEC. 6. Nothing in this act shall be construed to restrict a business or local government from maintaining existing, or issuing new, public health orders that are more stringent than those contained in this act.

SEC. 7. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure public health and safety during the ongoing COVID-19 pandemic and public health crisis, it is necessary for this act to go into immediate effect.

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Substantive

Amendment 6

On page 2, strike out lines 1 to 24, inclusive, and strike out pages 3 to 5, inclusive

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PROPOSED AMENDMENTS TO ASSEMBLY BILL NO. 455

AMENDED IN ASSEMBLY MAY 20, 2021

AMENDED IN ASSEMBLY MARCH 25, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 455

**Introduced by Assembly Member ~~Wicks~~ Members Wicks, Low, and
Akilah Weber**

(Principal coauthors: Senators Newman, Pan, and Wiener)

(Coauthor: Assembly Member Chiu)

(Coauthor: Senator Wiener)

February 8, 2021

~~An act to amend Section 30918 of the Streets and Highways Code, relating to transportation; add and repeal Section 52.8 of the Civil Code, to add and repeal Section 12940.4 of the Government Code, and to add and repeal Section 248.4 of the Labor Code, relating to COVID-19 vaccination requirements, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 455, as amended, Wicks. ~~San Francisco-Oakland Bay Bridge: transit-only traffic lanes. Public accommodations: employment: paid sick leave: COVID-19 vaccination requirements.~~

Existing federal law, the Federal Food, Drug, and Cosmetic Act, authorizes the United States Secretary of Health and Human Services to authorize the introduction into interstate commerce of a vaccine for use in an emergency upon declaring a public health emergency. On February 4, 2020, the secretary determined circumstances exist



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justifying the authorization of 3 vaccines for the prevention of COVID-19.

The California Emergency Services Act authorizes the Governor to declare a state of emergency during conditions of disaster or extreme peril to persons or property, including epidemics. Pursuant to this authority, on March 4, 2020, the Governor declared a state of emergency relating to the COVID-19 pandemic.

Existing law imposes various requirements on establishments that serve the public, including owners and operators of hotels, restaurants, and other venues. Existing law charges the Business, Consumer Services, and Housing Agency with, among other powers, oversight and regulation of business and financial services.

This bill would require an establishment, as defined, to require each person who is eligible to receive the COVID-19 vaccine, who seeks to enter the indoor facilities of that establishment, to show proof to an employee or authorized agent of the establishment that the person has been vaccinated against COVID-19. The bill would define “establishment,” for purposes of these provisions, to include, among others, inns and hotels, restaurants and other food facilities, theaters, and stadiums, as specified. The bill would create an exception from these provisions for children who are ineligible to receive the COVID-19 vaccine due to age and persons who are ineligible for the vaccine due to a verified medical condition or disability, subject to verification thereof, and in compliance with state and federal laws. The bill would require proof of vaccination status to be obtained in a manner that complies with federal and state privacy laws and not be retained by the establishment, unless the person authorizes the establishment to retain proof for subsequent entry into the indoor facilities of the establishment. The bill would prohibit an establishment, employee, or authorized agent of the establishment that obtains proof of vaccination status from sharing, transferring, or selling that information with or to a third party. The bill would require the Business, Consumer Services, and Housing Agency to provide guidance to establishments on how to obtain and protect this information. The bill would authorize the State Department of Public Health to develop and implement a mechanism for enforcing these provisions by November 1, 2021. The bill would also authorize the Attorney General, a district attorney, or a city attorney to bring a civil action for a violation of these provisions, as specified. The bill would specify that these provisions remain operative until the

termination of the state of emergency declared on March 4, 2020, and would repeal them as of the termination date.

Under existing law, the California Fair Employment and Housing Act (FEHA), establishes the Department of Fair Employment and Housing within the Business, Consumer Services, and Housing Agency to enforce civil rights laws with respect to housing and employment. Under FEHA, it is an unlawful employment practice for an employer, unless based upon a bona fide occupational qualification or applicable security regulation established by the United States or the State of California, to refuse to hire or employ a person or to refuse to select a person for a training program leading to employment, or to bar or discharge a person from employment or a training program leading to employment, or to discriminate against a person in compensation or in terms, conditions, or privileges of employment because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status of that person, as specified.

Under existing law, it is also an unlawful employment practice for an employer or any entity covered by FEHA to refuse to hire or employ a person or to refuse to select a person for a training program leading to employment or to bar or discharge a person from employment or from a training program leading to employment, or to discriminate against a person in compensation or in terms, conditions, or privileges of employment because of a conflict between the person’s religious belief or observance and any employment requirement, unless the employer or entity demonstrates that it has explored any available reasonable alternative means of accommodating the religious belief or observance, including, among others, the possibilities of excusing the person from those duties that conflict with the person’s religious belief or observance, but is unable to reasonably accommodate the religious belief or observance without undue hardship, as defined, on the conduct of the business of the employer or entity, as specified. It is also an unlawful employment practice for an employer or an entity covered by FEHA to fail to make reasonable accommodation for the known physical or mental disability of an applicant or employee.

This bill, notwithstanding the above-described provisions of FEHA, would require, except as provided, an employer or contracting party to require each person who is an applicant for employment, an employee, or an independent contractor, and who is eligible to receive

the COVID-19 vaccine, to show proof to the employer, contracting party, or an authorized agent thereof, that the person has been vaccinated against COVID-19. The bill would require an employee or independent contractor who does not provide proof-of-vaccination status to the employer or contracting party to test weekly for COVID-19 and provide documentation of a negative COVID-19 test each week. The bill would require proof-of-vaccination status to be obtained in a manner that complies with federal and state privacy laws and not be retained by the employer or contracting party, unless the person authorizes the employer or contracting party to retain proof. The bill would prohibit an employer, contracting party, or authorized agent of the employer or contracting party that obtains proof-of-vaccination status from sharing, transferring, or selling that information with or to a third party. The bill would require the Department of Fair Employment and Housing to provide guidance to employers and contracting parties on how to obtain and protect this information. The bill would specify that, to the extent allowable under state and federal law and any employment agreement entered into on or after the effective date of these provisions, an employee who refuses to comply with these provisions may be subject to termination, or an independent contractor who refuses to comply may be in breach of contract. The bill would authorize only the Department of Fair Employment and Housing to enforce these provisions by bringing a civil action, as specified. The bill would specify that these provisions remain operative until the termination of the state of emergency declared on March 4, 2020, and would repeal them as of the termination date.

Existing law, the Healthy Workplaces, Healthy Families Act of 2014, entitles an employee who works in California for the same employer for 30 or more days within a year from the commencement of employment to paid sick days. Under existing law, an employee accrues paid sick days at a rate of not less than one hour per every 30 hours worked, subject to certain use, accrual, and yearly carryover limitations. Existing law requires the Labor Commissioner to enforce the act and provides for procedures, including investigation and hearing, and for remedies and penalties.

Existing law, until September 30, 2021, requires that COVID-19 supplemental paid sick leave be provided to covered employees, as defined, who are unable to work or to telework due to certain reasons related to COVID-19.

This bill would require public and private employers to provide employees with 24 hours of COVID-19 vaccine supplemental paid sick leave in addition to any other available sick leave, as specified, that would be available to an employee if that employee is unable to work because the employee is attending an appointment to receive a vaccine for protection against contracting COVID-19, or the employee is experiencing symptoms related to a COVID-19 vaccine that prevents the employee from being able to work. The bill would specify that the COVID-19 vaccine supplemental paid sick leave would be compensated at the regular rate of pay to which the employee would be entitled if the employee had been scheduled to work those hours pursuant to existing law or an applicable collective bargaining agreement. The bill would specify that these provisions remain operative until the termination of the state of emergency declared on March 4, 2020, and would repeal them as of the termination date.

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 bill would make related findings and declarations.

This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law creates the Metropolitan Transportation Commission as a local area planning agency for the 9-county San Francisco Bay area with comprehensive regional transportation planning and other related responsibilities. Existing law creates the Bay Area Toll Authority as a separate entity governed by the same governing board as the commission and makes the authority responsible for the administration of toll revenues from the state-owned toll bridges in the San Francisco Bay area. Existing law requires the Department of Transportation to collect tolls, operate, maintain, and provide rehabilitation of all state-owned toll bridges in the San Francisco Bay area, and be responsible for the design and construction of improvements on those bridges in accordance with programming and scheduling requirements adopted by the authority.~~

~~Under existing law, the San Francisco-Oakland Bay Bridge is part of the state highway system. Existing law authorizes the department to construct exclusive or preferential lanes for buses only or for buses and other high-occupancy vehicles, and may authorize or permit the exclusive or preferential use of designated lanes on existing highways that are part of the state highway system.~~

~~This bill would authorize the authority, in consultation with the department, to designate transit-only traffic lanes on the San Francisco-Oakland Bay Bridge.~~

~~This bill would make legislative findings and declarations as to the necessity of a special statute for the San Francisco-Oakland Bay Bridge.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

- + SECTION 1. (a) *The Legislature finds and declares all of the following:*
- + (1) *On March 4, 2020, Governor Newsom declared a state of emergency in California due to the threat posed by the novel coronavirus (COVID-19) pandemic.*
- + (2) *On December 11, 2020, the United States Food and Drug Administration (FDA) issued the first emergency use authorization for the Pfizer-BioNTech COVID-19 vaccine, allowing the vaccine to be distributed in the United States. Since then, the FDA has authorized two additional vaccines for emergency use, the Moderna vaccine and the Janssen (Johnson & Johnson) vaccine.*
- + (3) *California is one of the most populous states in the nation, has the fifth largest economy in the world, and the largest economy in the United States.*
- + (4) *COVID-19 has already killed more than 64,000 people in California, and poses a grave threat to the people of this state and to the state economy as a whole.*
- + (5) *California continues to experience high rates of COVID-19 infections, despite efforts to limit the spread of the virus.*
- + (6) *Health experts have identified indoor spaces as potential COVID-19 infection hotspots.*
- + (7) *On March 4, 2021, the Department of Fair Employment and Housing published guidance entitled “Employment Information on COVID-19” and noted that, under the California Fair Employment and Housing Act (FEHA), an employer may require employees to receive a vaccination against COVID-19.*
- + (b) *The Legislature further finds and declares that this legislation, which would establish new proof-of-vaccination requirements for public establishments, as defined, and employment, is reasonable and necessary to address this*

Amendment 5

+ *monumental public health crisis and to protect the public health*
+ *and well-being of the people of California.*
+ *SEC. 2. Section 52.8 is added to the Civil Code, to read:*
+ *52.8. (a) Notwithstanding any other law, an establishment, as*
+ *defined in subdivision (b), shall require each person who is eligible*
+ *to receive the COVID-19 vaccine, who seeks to enter the indoor*
+ *facilities of that establishment, to show proof to an employee or*
+ *authorized agent of the establishment that the person has been*
+ *vaccinated against COVID-19.*
+ *(b) For purposes of this section, the following definitions apply:*
+ *(1) "Establishment" means any of the following that serve the*
+ *public as a place of public accommodation:*
+ *(A) Any inn, hotel, motel, or other establishment that provides*
+ *lodging to transient guests, other than an establishment located*
+ *within a building that does not contain more than five rooms for*
+ *rent or hire and that is actually occupied by the proprietor of that*
+ *establishment as the proprietor's residence.*
+ *(B) Any restaurant, bar, cafeteria, lunchroom, lunch counter,*
+ *soda fountain, or other facility principally engaged in selling food*
+ *or beverages for consumption on the premises, including, but not*
+ *limited to, any such facility located on the premises of any retail*
+ *establishment or gasoline station.*
+ *(C) Any motion picture house, theater, concert hall, sports*
+ *arena, stadium, gym, spa, or other place of exhibition or*
+ *entertainment.*
+ *(D) Any establishment that is physically located within the*
+ *premises of any establishment otherwise covered by this paragraph.*
+ *(E) Notwithstanding subparagraphs (A) to (D) inclusive,*
+ *"establishment" does not include a place where food is served*
+ *exclusively for takeout, curbside pickup, or consumption at another*
+ *location and is not open to the public.*
+ *(2) "Proof" means valid documentation of the person's*
+ *COVID-19 vaccination record, which may be their vaccine card*
+ *or a copy or a digital version thereof, as provided by their health*
+ *care provider, the State Department of Public Health, or another*
+ *state or federal agency.*
+ *(3) "Vaccinated against COVID-19" means that the person is*
+ *fully vaccinated against COVID-19 by a vaccine authorized by*
+ *the United States Food and Drug Administration or the World*
+ *Health Organization.*

+ (c) The requirement that a person be “vaccinated against
+ COVID-19” pursuant to subdivision (a) does not apply to either
+ of the following:

+ (1) A child who is ineligible to receive a COVID-19 vaccine
+ due to the child’s age.

+ (2) A person who is ineligible to receive a COVID-19 vaccine
+ due to a medical condition or disability that precludes the person
+ from receiving a vaccination, subject to verification thereof, and
+ in compliance with state and federal law, including the reasonable
+ accommodation provisions of the federal Americans with
+ Disabilities Act of 1990 (Public Law 101-336) and Title VII of the
+ federal Civil Rights Act of 1964 (Public Law 88-352).

+ (d) (1) Proof of vaccination status required pursuant to this
+ section shall be obtained in a manner that complies with federal
+ and state privacy laws and shall not be retained by the
+ establishment, unless the person authorizes the establishment to
+ retain proof for subsequent entry into the indoor facilities of the
+ establishment.

+ (2) An establishment, employee, or authorized agent of the
+ establishment that obtains proof of vaccination status pursuant to
+ this section shall not share, transfer, or sell that information with
+ or to a third party.

+ (3) The Business, Consumer Services, and Housing Agency shall
+ provide guidance to establishments on how to obtain and protect
+ proof of vaccination information.

+ (e) The State Department of Public Health is authorized to
+ develop and implement a mechanism for enforcing this section by
+ November 1, 2021.

+ (f) The Attorney General, a district attorney, or a city attorney
+ may bring a civil action for a violation of this section, including
+ injunctive and other appropriate relief, and reasonable attorney’s
+ fees and costs.

+ (g) This section shall remain operative until the end, pursuant
+ to Section 8629 of the Government Code, of the state of emergency
+ proclaimed by the Governor on March 4, 2020, related to the
+ COVID-19 pandemic, and as of that date is repealed.

+ SEC. 3. Section 12940.4 is added to the Government Code, to
+ read:

+ 12940.4. (a) (1) Notwithstanding any provision of this chapter
+ or any other law, an employer or contracting party shall require

+ *each person who is an applicant for employment, an employee, or*
+ *an independent contractor, and who is eligible to receive the*
+ *COVID-19 vaccine, to show proof to the employer or contracting*
+ *party or an authorized agent thereof, that the person has been*
+ *vaccinated against COVID-19.*

+ (2) (A) *An employee or independent contractor who does not*
+ *provide an employer with proof-of-vaccination status shall take a*
+ *weekly COVID-19 test and shall provide the employer or*
+ *contracting party with documentation of a negative COVID-19*
+ *test each week.*

+ (B) *Any COVID-19 tests required by this paragraph shall be*
+ *provided through the employee’s, applicant’s, or independent*
+ *contractor’s existing health coverage plan, or through claims*
+ *reimbursement for the uninsured through the United States Health*
+ *Resources and Services Administration. For employees, applicants,*
+ *or independent contractors that have a health coverage plan that*
+ *does not cover COVID-19 screening testing, as required by this*
+ *paragraph, the costs shall be covered through available federal,*
+ *state, and local funds made available to health care providers.*

+ (C) *Employers and contracting parties shall not be required to*
+ *compensate or provide additional leave time for an employee or*
+ *independent contractor to take a weekly COVID-19 test pursuant*
+ *to this paragraph.*

+ (3) *A public employer or contracting party shall meet and confer*
+ *in good faith, as that term is defined in Section 3505, regarding*
+ *acceptable proof of vaccination, accepted documentation of a*
+ *negative COVID-19 test, locations of testing sites, and other terms*
+ *and conditions of employment with representatives of such*
+ *recognized employee organizations, as defined in subdivision (b)*
+ *of Section 3501, and shall consider fully such presentations as are*
+ *made by the employee organization on behalf of its members prior*
+ *to arriving at a determination of policy or course of action.*

+ (b) *For purposes of this section, the following definitions apply:*

+ (1) *“Proof” means documentation of the person’s COVID-19*
+ *vaccination record, which may be their vaccine card or a copy or*
+ *a digital version thereof, as provided by their health care provider,*
+ *the State Department of Public Health, or another state or federal*
+ *agency, that reasonably appears genuine and relates to the person*
+ *required to show such proof.*

+ (2) “Vaccinated against COVID-19” means that the person is
+ fully vaccinated against COVID-19 by a vaccine authorized by
+ the United States Food and Drug Administration or the World
+ Health Organization.

+ (c) (1) The requirement that a person be “vaccinated against
+ COVID-19” pursuant to subdivision (a) does not apply to a person
+ who is ineligible to receive a COVID-19 vaccine due to a medical
+ condition or disability that precludes the person from receiving a
+ vaccination, subject to verification thereof, and in compliance with
+ this chapter and other state and federal laws, including the
+ reasonable accommodation provisions of the federal Americans
+ with Disabilities Act of 1990 (Public Law 101-336) and Title VII
+ of the federal Civil Rights Act of 1964 (Public Law 88-352).

+ (2) The requirement that a person be “vaccinated against
+ COVID-19” pursuant to subdivision (a) does not apply to a person
+ who does not physically enter the worksite owned or controlled
+ by the employer for purpose of performing job duties.

+ (d) (1) Proof-of-vaccination status required pursuant to this
+ section shall be obtained in a manner that complies with federal
+ and state privacy laws and shall not be retained by the employer
+ or contracting party, unless the person authorizes the employer
+ or contracting party to retain proof.

+ (2) An employer, contracting party, or authorized agent that
+ obtains proof-of-vaccination status pursuant to this section shall
+ not share, transfer, or sell that information with or to a third party.

+ (3) The department shall provide guidance to employers and
+ contracting parties on how to obtain and protect this information.

+ (e) (1) This section applies to both private and public employers
+ and contracting parties.

+ (2) “Public employer,” for purposes of this section, means:

+ (A) The state and every state entity, including, but not limited
+ to, the Legislature, the judicial branch, and the California State
+ University.

+ (B) A political subdivision of the state, or agency or
+ instrumentality of the state or subdivision of the state, including,
+ but not limited to, a city, county, city and county, charter city,
+ charter county, school district, community college district, joint
+ powers authority, joint powers agency, and any public agency,
+ authority, board, commission, or district.

+ (f) To the extent allowable under state and federal law and any
+ employment agreement or contract entered into on or after the
+ effective date of this act, an employee who refuses to comply with
+ this section may be subject to termination, and any independent
+ contractor who refuses to comply with this section may be in
+ breach of contract.

+ (g) (1) The Department of Fair Employment and Housing may
+ bring a civil action for a violation of this section, including
+ injunctive and other appropriate relief, and reasonable attorney's
+ fees and costs.

+ (2) This section shall solely be enforced by the Department of
+ Fair Employment and Housing.

+ (h) The Legislature finds and declares that protecting the public
+ health and well-being of the people of California by requiring
+ proof of vaccination against COVID-19 for employment pursuant
+ to this section 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, this section applies to all
+ cities, counties, and cities and counties, including charter cities.

+ (i) This section shall remain operative until the end, pursuant
+ to Section 8629 of the Government Code, of the state of emergency
+ proclaimed by the Governor on March 4, 2020, related to the
+ COVID-19 pandemic, and as of that date is repealed.

+ SEC. 4. Section 248.4 is added to the Labor Code, to read:

+ 248.4. (a) As used in this section:

+ (1) "COVID-19 vaccine supplemental paid sick leave" means
+ paid sick leave provided pursuant to this section.

+ (2) "Employer" includes both private and public employers.

+ (3) "Public employer" means:

+ (A) The state and every state entity, including, but not limited
+ to, the Legislature, the judicial branch, and the California State
+ University.

+ (B) A political subdivision of the state, or agency or
+ instrumentality of the state or subdivision of the state, including,
+ but not limited to, a city, county, city and county, charter city,
+ charter county, school district, community college district, joint
+ powers authority, joint powers agency, and any public agency,
+ authority, board, commission, or district.

+ (b) An employer shall provide COVID-19 vaccine supplemental
+ paid sick leave to each employee as follows:

- + (1) COVID-19 vaccine supplemental paid sick leave shall be available to an employee if that employee is unable to work due to either of the following reasons:
- + (A) The employee is attending an appointment to receive a vaccine for protection against contracting COVID-19.
- + (B) The employee is experiencing symptoms related to a COVID-19 vaccine.
- + (2) An employee shall be entitled to the following number of hours of COVID-19 vaccine supplemental paid sick leave:
- + (A) An employee is entitled to 24 hours of COVID-19 vaccine supplemental paid sick leave.
- + (B) COVID-19 vaccine supplemental paid sick leave to which an employee is entitled pursuant to this section shall be in addition to any paid sick leave that may be available to the employee under any other law.
- + (c) An employee may determine how many hours of COVID-19 vaccine supplemental paid sick leave to use, up to the total number of hours to which the employee is entitled pursuant to subparagraph (A). The COVID-19 vaccine supplemental paid sick leave is available for immediate use by the employee.
- + (3) Each hour of COVID-19 vaccine supplemental paid sick leave shall be compensated at the regular rate of pay to which the employee would be entitled if the employee had been scheduled to work those hours pursuant to existing law or an applicable collective bargaining agreement.
- + (4) An employee shall not be required to use any other paid or unpaid leave before the employee uses COVID-19 vaccine supplemental paid sick leave or in lieu of COVID-19 vaccine supplemental paid sick leave.
- + (d) The Legislature finds and declares that protecting the public health and well-being of the people of California by providing COVID-19 supplemental paid sick leave for all employees pursuant to this section 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, this section applies to all cities, counties, and cities and counties, including charter cities.
- + (e) This section shall remain operative until the end, pursuant to Section 8629 of the Government Code, of the state of emergency proclaimed by the Governor on March 4, 2020, related to the COVID-19 pandemic, and as of that date is repealed.

+ SEC. 5. Nothing in this act supersedes existing state public
+ health orders applicable to public employees relating to the
+ COVID-19 pandemic, including, but not limited to, all of the
+ following:

+ (a) State Department of Public Health State Public Health
+ Officer Order of July 26, 2021 (Health Care Worker Protections
+ in High-Risk Settings).

+ (b) State Department of Public Health State Public Health
+ Officer Order of August 5, 2021 (Requirements for Visitors in
+ Acute Health Care and Long-Term Care Settings).

+ (c) State Department of Public Health State Public Health
+ Officer Order of August 5, 2021 (Health Care Worker Vaccine
+ Requirement).

+ (d) State Department of Public Health State Public Health
+ Officer Order of August 11, 2021 (Vaccine Verification for Workers
+ in Schools).

+ (e) State Department of Public Health State Public Health
+ Officer Order of August 19, 2021 (State and Local Correctional
+ Facilities and Detention Centers Health Care Worker Vaccination
+ Requirement).

+ SEC. 6. Nothing in this act shall be construed to restrict a
+ business or local government from maintaining existing, or issuing
+ new, public health orders that are more stringent than those
+ contained in this act.

+ SEC. 7. The provisions of this act are severable. If any
+ provision of this act or its application is held invalid, that invalidity
+ shall not affect other provisions or applications that can be given
+ effect without the invalid provision or application.

+ SEC. 8. This act is an urgency statute necessary for the
+ immediate preservation of the public peace, health, or safety within
+ the meaning of Article IV of the California Constitution and shall
+ go into immediate effect. The facts constituting the necessity are:

+ In order to ensure public health and safety during the ongoing
+ COVID-19 pandemic and public health crisis, it is necessary for
+ this act to go into immediate effect.

1 SECTION 1. ~~(a) The Legislature finds and declares all of the~~
2 following:

3 ~~(1) The Bay Bridge Corridor has a uniquely high proportion of~~
4 ~~travel by transit use, with morning peak hour transit riders~~

Amendment 6

Page 2

Page 2 5 numbering nearly three times as many as automobile travelers in
6 2015.
7 ~~(2) The Bay Bridge Corridor is consistently among the most~~
8 ~~used road segments in the San Francisco Bay area, resulting in a~~
9 ~~situation where full buses are frequently stuck in traffic congestion~~
10 ~~causing service that is slow and unreliable for customers and costly~~
11 ~~for transit operators.~~
12 ~~(3) The state has invested more than \$500,000,000 in a modern~~
13 ~~transit terminal, known as the Transbay Transit Center, connected~~
14 ~~to the Bay Bridge by exclusive access ramps, with capacity to~~
15 ~~serve 300 buses per hour.~~
16 ~~(b) It is the intent of the Legislature that the Bay Area Toll~~
17 ~~Authority, in consultation with the Department of Transportation,~~
18 ~~establish tolls, vehicle occupancy requirements, incident response~~
19 ~~procedures, other operational improvements, and capital investment~~
20 ~~priorities in order to achieve fast and reliable bus transit within~~
21 ~~the corridor, meaning that during the morning and evening weekday~~
22 ~~peak commute times, buses will average at least 45 miles per hour~~
23 ~~in both directions along the Bay Bridge Corridor no less than 90~~
24 ~~percent of weekdays each month.~~

Page 3 1 ~~(e) It is the intent of the Legislature that transit-only lane~~
2 ~~additions in the Bay Bridge Corridor result in a greater number of~~
3 ~~people per hour being able to cross the bridge.~~
4 ~~SEC. 2. Section 30918 of the Streets and Highways Code is~~
5 ~~amended to read:~~
6 ~~30918. (a) It is the intent of the Legislature to maintain tolls~~
7 ~~on all of the bridges specified in Section 30910 at rates sufficient~~
8 ~~to meet any obligation to the holders of bonds secured by the bridge~~
9 ~~toll revenues. The authority shall retain authority to set the toll~~
10 ~~schedule as may be necessary to meet those bond obligations. The~~
11 ~~authority shall provide at least 30 days' notice to the transportation~~
12 ~~policy committee of each house of the Legislature and shall hold~~
13 ~~a public hearing before adopting a toll schedule reflecting the~~
14 ~~increased toll rate.~~
15 ~~(b) The authority shall increase the toll rates specified in the~~
16 ~~adopted toll schedule in order to meet its obligations and covenants~~
17 ~~under any bond resolution or indenture of the authority for any~~
18 ~~outstanding toll bridge revenue bonds issued by the authority and~~
19 ~~the requirements of any constituent instruments defining the rights~~
20 ~~of holders of related obligations of the authority entered into~~

Page 3 21 pursuant to Section 5922 of the Government Code and,
 22 notwithstanding Section 30887 or subdivision (d) of Section 30916
 23 of this code, or any other law, may increase the toll rates specified
 24 in the adopted toll schedule to provide funds for the planning,
 25 design, construction, operation, maintenance, repair, replacement,
 26 rehabilitation, and seismic retrofit of the state-owned toll bridges
 27 specified in Section 30910 of this code, to provide funding to meet
 28 the requirements of Sections 30884 and 30911 of this code, and
 29 to provide funding to meet the requirements of voter-approved
 30 regional measures pursuant to Sections 30914, 30921, and 30923
 31 of this code.

32 (e) Notwithstanding any other law, the authority's toll structure
 33 for the state-owned toll bridges specified in Section 30910 may
 34 vary from bridge to bridge and may include discounts consistent
 35 with the following:

36 (1) The authority may include discounts for the following
 37 vehicles:

38 (A) Vehicles classified by the authority as high-occupancy
 39 vehicles.

Page 4 1 (B) Vehicles that pay for tolls electronically or through other
 2 non-cash methods. The authority may charge differential rates
 3 based on the chosen method.

4 (2) The authority shall provide a 50-percent discount on the
 5 amount of the toll increase approved pursuant to Section 30923
 6 on the second bridge crossing for those commuters using a two-axle
 7 vehicle who pay tolls electronically or through other noncash
 8 methods and who cross two bridges specified in Section 30910
 9 during commute hours. The authority shall establish reasonable
 10 and practical operating rules to implement this paragraph.

11 (d) If the authority establishes high-occupancy vehicle lane fee
 12 discounts or access for vehicles classified by the authority as
 13 high-occupancy vehicles for any bridge or segments of a highway
 14 that connect to the bridge, the authority shall establish the
 15 occupancy requirements that shall apply on each segment of
 16 highway that connects with that bridge, in consultation with the
 17 department.

18 (e) All tolls referred to in this section and Sections 30916,
 19 31010, and 31011 may be treated by the authority as a single
 20 revenue source for accounting and administrative purposes and
 21 for the purposes of any bond indenture or resolution and any

Page 4 22 agreement entered into pursuant to Section 5922 of the Government
 23 Code.
 24 (f) It is the intent of the Legislature that the authority should
 25 consider the needs and requirements of both its electronic and
 26 cash-paying customers when it designates toll payment options at
 27 the toll plazas for the toll bridges under its jurisdiction.
 28 (g) (1) The authority may, in consultation with the department,
 29 designate transit-only traffic lanes on the San Francisco-Oakland
 30 Bay Bridge.
 31 (2) For purposes of this subdivision, "transit-only traffic lane"
 32 means any designated transit-only lane on which use is restricted
 33 to mass transit vehicles, or other designated vehicles including
 34 taxis and vanpools, during posted times. "Other designated
 35 vehicles" may include high-occupancy vehicles if the occupancy
 36 threshold is established in a manner that does not prevent mass
 37 transit vehicles from meeting weekday peak commute average
 38 travel times of at least 45 miles per hour in both directions along
 39 the San Francisco-Oakland Bay Bridge at least 90 percent of the
 40 weekdays each calendar month.

Page 5 1 SEC. 3. The Legislature finds and declares that a special statute
 2 is necessary and that a general statute cannot be made applicable
 3 within the meaning of Section 16 of Article IV of the California
 4 Constitution because of the unique transportation and congestion
 5 issues on the San Francisco-Oakland Bay Bridge.

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