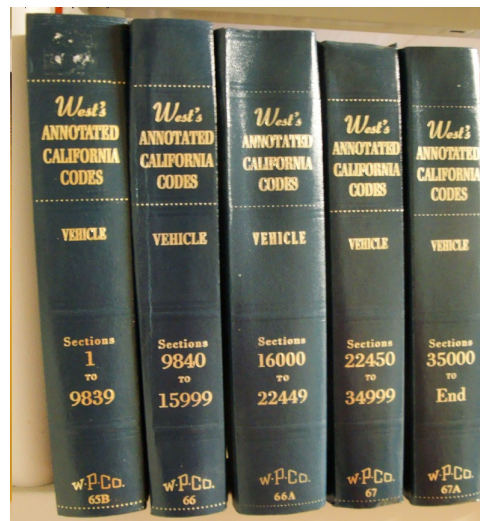


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USEFUL CALIFORNIA CODE SECTIONS



CALIFORNIA GOVERNMENT CODE

Cal. Govt. Code §4. No action or proceeding commenced before this code takes effect, and no right accrued, is affected by this code,

Cal. Govt. Code §14. "Shall" is mandatory and "may" is permissive.

Cal. Govt. Code §22. "Process" includes a writ or summons issued in the course of judicial proceedings of either a civil or criminal nature.

Cal. Govt. Code §100(a). The sovereignty of the state resides in the people thereof, and all writs and processes shall issue in their name.

Cal. Govt. Code §181. The original and ultimate right to all property within the limits of the State is in the people thereof.

Cal. Govt. Code §182. All property within the limits of the State, which does not belong to any person, belongs to the people. Whenever the title to any property fails for want of heirs or next of kin, it reverts to the people.

Cal. Govt. Code §820. (a) Except as otherwise provided by statute (including Section 820.2), a public employee is liable for injury caused by his act or omission to the same extent as a private person.

(b) The liability of a public employee established by this part (commencing with Section 814) is subject to any defenses that would be available to the public employee if he were a private person.

Cal. Govt. Code §820.2. Except as otherwise provided by statute, a public employee is not liable for an injury resulting from his act or omission where the act or omission was the result of the exercise of the discretion vested in him, whether or not such discretion be abused.

Cal. Govt. Code §820.25. (a) For purposes of Section 820.2, the decision of a peace officer, as defined in Sections 830.1 and 830.2 of the Penal Code, or a state or local law enforcement official, to render assistance to a motorist who has not been involved in an accident or to leave the scene after rendering assistance, upon learning of a reasonably apparent emergency requiring his immediate attention elsewhere or upon instructions from a superior to assume duties elsewhere, shall be deemed an exercise of discretion.

(b) The provision in subdivision (a) shall not apply if the act or omission occurred pursuant to the performance of a ministerial duty. For purposes of this section, "ministerial duty" is defined as a plain and mandatory duty involving the execution of a set task and to be performed without the exercise of discretion.

Cal. Govt. Code §820.4. A public employee is not liable for his act or omission, exercising due care, in the execution or enforcement of any law. Nothing in this section exonerates a public employee from liability for false arrest or false imprisonment.

Cal. Govt. Code §820.6. If a public employee acts in good faith, without malice, and under the apparent authority of an enactment that is unconstitutional, invalid or inapplicable, he is not liable for an injury caused thereby except to the extent that he would have been liable had the enactment been constitutional, valid and applicable.

Cal. Govt. Code §820.8. Except as otherwise provided by statute, a public employee is not liable for an injury caused by the act or omission of another person. Nothing in this section exonerates a public employee from liability for injury proximately caused by his own negligent or wrongful act or omission.

Cal. Govt. Code §821.6. A public employee is not liable for injury caused by his instituting or prosecuting any judicial or administrative proceeding within the scope of his employment, even if he acts maliciously and without probable cause.

Cal. Govt. Code §822.2. A public employee acting in the scope of his employment is not liable for an injury caused by his misrepresentation, whether or not such misrepresentation be negligent or intentional, unless he is guilty of actual fraud, corruption or actual malice.

845. Neither a public entity nor a public employee is liable for failure to establish a police department or otherwise to provide police protection service...

Cal. Govt. Code §846. Neither a public entity nor a public employee is liable for injury caused by the failure to make an arrest or by the failure to retain an arrested person in custody.

Cal. Govt. Code §951. Notwithstanding Section 425.10 of the Code of Civil Procedure, any complaint for damages in any civil action brought against a publicly elected or appointed state or local officer, in his or her individual capacity, where the alleged injury is proximately caused by the officer acting under color of law, shall allege with particularity sufficient material facts to establish the individual liability of the publicly elected or appointed state or local officer and the plaintiff's right to recover therefrom.

Cal. Govt. Code §1027.5. The Legislature of the State of California finds that:

(a) There exists a world-wide revolutionary movement to establish a totalitarian dictatorship based upon force and violence rather than upon law.

(b) This world-wide revolutionary movement is predicated upon and it is designed and intended to carry into execution the basic precepts of communism as expounded by Marx, Lenin, and Stalin.

(c) Pursuant to the objectives of the world communism movement, in numerous foreign countries the legally constituted governments have been overthrown and totalitarian dictatorships established therein against the will of the people, and the establishment of similar dictatorships in other countries is imminently threatening. The successful establishment of totalitarian dictatorships has consistently been aided, accompanied, or accomplished by repeated acts of treachery, deceit, teaching of false doctrines, teaching untruth, together with organized confusion, insubordination, and disloyalty, fostered, directed, instigated, or employed by communist organizations and their members in such countries.

(d) Within the boundaries of the State of California there are active disciplined communist organizations presently functioning for the primary purpose of advancing the objectives of the world communism movement, which organizations promulgate, advocate, and adhere to the precepts and the principles and doctrines of the world communism movement. These communist organizations are characterized by identification of their programs, policies, and objectives with those of the world communism movement, and they regularly and consistently cooperate with and endeavor to carry into execution programs, policies and objectives substantially identical to programs, policies, and objectives of such world communism movement.

(e) One of the objectives of the world communism movement is to place its members in state and local government positions and in state supported educational institutions. If this objective is successful, propaganda can be disseminated by the members of these organizations among pupils and students by those members who would have the opportunity to teach them and to whom, as teachers, they would look for guidance, authority, and leadership. The members of such groups would use their positions to advocate and teach their doctrines and teach the prescribed Communist Party line group dogma or doctrine without regard to truth or free inquiry. This type of propaganda is sufficiently subtle to escape detection.

There is a clear and present danger, which the Legislature of the State of California finds is great and imminent, that in order to advance the program, policies and objectives of the world communism movement, communist organizations in the State of California and their members will engage in concerted effort to hamper, restrict, interfere with, impede, or nullify the efforts of the State and the public agencies of the State to comply with and enforce the laws of the State of California and their members will infiltrate and seek employment by the State and its public agencies.

Cal. Govt. Code §1031. Each class of public officers or employees declared by law to be peace officers shall meet all of the following minimum standards:

- (a) Be a citizen of the United States or a permanent resident alien who is eligible for and has applied for citizenship, except as provided in Section 2267 of the Vehicle Code.
- (b) Be at least 18 years of age.
- (c) Be fingerprinted for purposes of search of local, state, and national fingerprint files to disclose a criminal record.

(d) Be of good moral character, as determined by a thorough background investigation.

(e) Be a high school graduate, pass the General Education Development Test indicating high school graduation level, pass the California High School Proficiency Examination, or have attained a two-year, four-year, or advanced degree from an accredited college or university. The high school shall be either a United States public school, an accredited United States Department of Defense high school, or an accredited or approved public or nonpublic high school. Any accreditation or approval required by this paragraph shall be from a state or local government educational agency using local or state government approved accreditation, licensing, registration, or other approval standards, a regional accrediting association, an accrediting association recognized by the Secretary of the United States Department of Education, an accrediting association holding full membership in the National Council for Private School Accreditation (NCPSA), an organization holding full membership in the Commission on International and Trans-Regional Accreditation (CITA), an organization holding full membership in the Council for American Private Education (CAPE), or an accrediting association recognized by the National Federation of Nonpublic School State Accrediting Associations (NFNSSAA).

(f) Be found to be free from any physical, emotional, or mental condition that might adversely affect the exercise of the powers of a peace officer.

(1) Physical condition shall be evaluated by a licensed physician and surgeon.

(2) Emotional and mental condition shall be evaluated by either of the following:

(A) A physician and surgeon who holds a valid California license to practice medicine, has successfully completed a postgraduate medical residency education program in psychiatry accredited by the Accreditation Council for Graduate Medical Education, and has at least the equivalent of five full-time years of experience in the diagnosis and treatment of emotional and mental disorders, including the equivalent of three full-time years accrued after completion of the psychiatric residency program.

(B) A psychologist licensed by the California Board of Psychology who has at least the equivalent of five full-time years of experience in the diagnosis and treatment of emotional and mental disorders, including the equivalent of three full-time years accrued postdoctorate.

The physician and surgeon or psychologist shall also have met any applicable education and training procedures set forth by the California Commission on Peace Officer Standards and Training designed for the conduct of preemployment psychological screening of peace officers.

(g) This section shall not be construed to preclude the adoption of additional or higher standards, including age.

(h) This section shall become operative on January 1, 2005.

Cal. Govt. Code §1192. When not otherwise provided for, within 10 days after receiving notice of their appointment, deputies and other subordinate officers shall take and file an oath in the manner required of their principals.

Cal. Govt. Code §1303. Every person who exercises any function of a public office without taking the oath of office, or without giving the required bond, is guilty of a misdemeanor.

This section does not affect the validity of acts done by a person exercising the functions of a public office in fact, where other persons than himself are interested in maintaining the validity of such acts.

Cal. Govt. Code §1360. Unless otherwise provided, before any officer enters on the duties of his office, he shall take and subscribe the oath or affirmation set forth in Section 3 of Article XX of the Constitution of California.

Cal. Govt. Code §1367. No compensation nor reimbursement for expenses incurred shall be paid to any officer by any public agency unless he has taken and subscribed to the oath or affirmation required by this chapter.

Cal. Govt. Code §6250. In enacting this chapter, the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state.

Cal. Govt. Code §8547.4. The State Auditor shall administer the provisions of this article and shall investigate and report on improper governmental activities.

Cal. Govt. Code §11120. It is the public policy of this state that public agencies exist to aid in the conduct of the people's business and the proceedings of public agencies be conducted openly so that the public may remain informed.

In enacting this article the Legislature finds and declares that it is the intent of the law that actions of state agencies be taken openly and that their deliberation be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

This article shall be known and may be cited as the Bagley-Keene Open Meeting Act.

Cal. Govt. Code §13951(b)(1). Crime means a crime or public offense, wherever it may take place,

Cal. Govt. Code §19572. Each of the following constitutes cause for discipline of an employee, or of a person whose name appears on any employment list:

- (a) Fraud in securing appointment.
- (b) Incompetency.
- (c) Inefficiency.

- (d) Inexcusable neglect of duty.
- (e) Insubordination.
- (f) Dishonesty.
- (g) Drunkenness on duty.
- (h) Intemperance.
- (i) Addiction to the use of controlled substances.
- (j) Inexcusable absence without leave.
- (k) Conviction of a felony or conviction of a misdemeanor involving moral turpitude. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, to a charge of a felony or any offense involving moral turpitude is deemed to be a conviction within the meaning of this section.
- (l) Immorality.
- (m) Discourteous treatment of the public or other employees.
- (n) Improper political activity.
- (o) Willful disobedience.
- (p) Misuse of state property.
- (q) Violation of this part or of a board rule.
- (r) Violation of the prohibitions set forth in accordance with Section 19990.
- (s) Refusal to take and subscribe any oath or affirmation that is required by law in connection with the employment.
- (t) Other failure of good behavior either during or outside of duty hours, which is of such a nature that it causes discredit to the appointing authority or the person's employment.
- (u) Any negligence, recklessness, or intentional act that results in the death of a patient of a state hospital serving the mentally disabled or the developmentally disabled.
- (v) The use during duty hours, for training or target practice, of any material that is not authorized for that use by the appointing power.
- (w) Unlawful discrimination, including harassment, on any basis listed in subdivision (a) of Section 12940, as those bases are defined in Sections 12926 and 12926.1, except as otherwise provided in Section 12940, against the public or other employees while acting in the capacity of a state employee.
- (x) Unlawful retaliation against any other state officer or employee or member of the public who in good faith reports, discloses, divulges, or otherwise brings to the attention of, the Attorney General or any other appropriate authority, any facts or information relative to actual or suspected violation of any law of this state or the United States occurring on the job or directly related to the job.

Cal. Govt. Code §26600. The sheriff shall preserve peace,

Cal. Govt. Code §26601. The sheriff shall arrest and take before the nearest magistrate for examination all persons who attempt to commit or who have committed a public offense.

Cal. Govt. Code §26602. The sheriff shall prevent and suppress any affrays, breaches of the

peace, riots, and insurrections which come to his knowledge, and investigate public offenses which have been committed.

Cal. Govt. Code §36507. Before entering upon his duties, each city officer shall take and file with the city clerk the constitutional oath of office, except that the councilmen elected at the incorporation election shall deposit said oath with the county clerk of the county wherein the city is located, to be held by him for delivery to the city clerk at such time as the city clerk officially assumes office.

Cal. Govt. Code §54950 DECLARATION OF LEGISLATIVE PURPOSE. "In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created".

Cal. Govt. Code §72193. Whenever the charter of any city creates the office of city prosecutor, or provides that a deputy city attorney shall act as city prosecutor, and charges such prosecutor with the duty, when authorized by law, of prosecuting misdemeanor offenses arising out of violations of state laws, the city prosecutor may exercise the following powers: (a) The city prosecutor shall prosecute all such misdemeanors committed within the city, and handle all appeals arising from it. The city prosecutor shall draw complaints for such misdemeanors, and shall prosecute all recognizances or bail bond forfeitures arising from or resulting from the commission of such offenses. (b) Whenever any person applying for a writ of habeas corpus is held in custody by any peace officer of such city, charged with having committed within the city any misdemeanor, a copy of the application for such writ shall be served upon such city prosecutor at the time and in the manner provided by law for the service of writs of habeas corpus upon district attorneys. On behalf of the people, the prosecutor shall conduct all proceedings relating to such application. If the constitutionality of any law is questioned in any such habeas corpus proceeding, the city prosecutor shall immediately notify the city attorney who may take charge of the proceedings on behalf of the people, or become associated with the city prosecutor in the proceedings.

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## CALIFORNIA BUSINESS AND PROFESSIONS CODE



**Cal. Biz. & Prof. Code §4.** No action or proceeding commenced before this code takes effect, and no right accrued, is affected by the provisions of this code,

**Cal. Biz. & Prof. Code §19.** "Shall" is mandatory and "may" is permissive.

**Cal. Biz. & Prof. Code §6001.** The State Bar of California is a public corporation. It is hereinafter designated as the State Bar.

**Cal. Biz. & Prof. Code §6001.1.** Protection of the public shall be the highest priority for the State Bar of California and the board of trustees in exercising their licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

**Cal. Biz. & Prof. Code §6001.2.** (a) On or before February 1, 2013, there shall be created within the State Bar a Governance in the Public Interest Task Force comprised of 7 members, including 6 members appointed as provided herein and the President of the State Bar. Two members shall be elected attorney members of the board of trustees who are selected by the elected attorney members, two members shall be attorney members of the board of trustees appointed by the Supreme Court who are selected by the Supreme Court appointees, and two members shall be public members of the board of trustees selected by the public members. The president shall preside over its meetings, all of which shall be held consistent with Section 6026.5.

(b) On or before May 15, 2014, and every three years thereafter, the task force shall prepare and submit a report to the Supreme Court, the Governor, and the Assembly and Senate Committees on Judiciary that includes its recommendations for enhancing the protection of the public and ensuring that protection of the public is the highest priority in the licensing, regulation, and discipline of attorneys, to be reviewed by the Assembly and Senate Committees on Judiciary in their regular consideration of the annual State Bar dues measure. If the task force does not reach a consensus on all of the recommendations in its report, the dissenting members of the task force may prepare and submit a dissenting report to the same entities described in this subdivision, to be reviewed by the committees in the same manner.

(c) The task force shall make suggestions to the board of trustees regarding possible additions to, or revisions of, the strategic plan required by Section 6140.12. In addition, the task force shall also make suggestions to the board of trustees regarding other issues requested from time to time by the Legislature.

(d) This section shall become operative on January 1, 2013.

**Cal. Biz. & Prof. Code §6104.** Corruptly or wilfully and without authority appearing as attorney for a party to an action or proceeding constitutes a cause for disbarment or suspension.

**Cal. Biz. & Prof. Code §7028(a).** It is a misdemeanor for a person to engage in the business or act in the capacity of a contractor within this state without having a license therefor, unless the

person is particularly exempted from the provisions of this chapter.

#### **DIVISION 4. REAL ESTATE**

#### **PART 1. LICENSING OF PERSONS**

#### **CHAPTER 1. GENERAL PROVISIONS**

**Cal. Biz. & Prof. Code §10006.** "Person" includes corporation, company and firm.

**Cal. Biz. & Prof. Code §20000.** This chapter shall be known and may be referred to as the California Franchise Relations Act.

**Cal. Biz. & Prof. Code §20001.** As used in this chapter, "franchise" means a contract or agreement, either expressed or implied, whether oral or written, between two or more persons by which:

(a) A franchisee is granted the right to engage in the business of offering, selling or distributing goods or services under a marketing plan or system prescribed in substantial part by a franchisor; and

(b) The operation of the franchisee's business pursuant to that plan or system is substantially associated with the franchisor's trademark, service mark, trade name, logotype, advertising, or other commercial symbol designating the franchisor or its affiliate; and

(c) The franchisee is required to pay, directly or indirectly, a franchise fee.

(d) "Franchise" does not include any of the following:

(1) Any franchise governed by the Petroleum Marketing Practices Act (P.L. 95-297).

(2) Lease departments, licenses, or concessions at or with a general merchandise retail establishment where the lease department, licensee, or concessionaire is incidental and ancillary to the general commercial operation of the retail establishment. Sales of a leased department, license, or concessionaire are incidental and ancillary to the general commercial operation of the retail establishment if they amount to less than 10 percent of the establishment's sales.

(3) A nonprofit organization operated on a cooperative basis by and for independent retailers which wholesales goods and services primarily to its member retailers and in which all of the following is applicable:

(A) Control and ownership of each member is substantially equal.

(B) Membership is limited to those who will use the services furnished by the organization.

(C) Transfer of ownership is prohibited or limited.

(D) Capital investment receives no return.

(E) Substantially equal benefits pass to the members on the basis of patronage of the organization.

(F) Members are not personally liable for obligations of the organization in the absence of a direct undertaking or authorization by them.

(G) Services of the organization are furnished primarily for the use of the members.

(H) Each member and prospective member is provided with an offering circular which

complies with the specifications of Section 31111 of the Corporations Code.

(I) No part of the receipts, income, or profit of the organization are paid to any profitmaking entity, except for arms-length payments for necessary goods and services and members are not required to purchase goods or services from any designated profitmaking entity.

(J) The nonprofit organization is subject to an action for rescission or damages under Section 3343.7 of the Civil Code if the organization fraudulently induced the plaintiff to join the organization.

**Cal. Biz. & Prof. Code §20002.** A "franchisee" is a person to whom a franchise is granted.

**Cal. Biz. & Prof. Code §20003.** A "franchisor" is a person who grants or has granted a franchise.

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CALIFORNIA CIVIL CODE

Cal. Civ. Code §18. Notice is:

1. Actual--which consists in express information of a fact; or,
2. Constructive--which is imputed by law.

Cal. Civ. Code §43. Besides the personal rights mentioned or recognized in the Government Code, every person has, subject to the qualifications and restrictions provided by law, the right of protection from bodily restraint or harm, from personal insult, from defamation, and from injury to his personal relations.

Cal. Civ. Code §50. Any necessary force may be used to protect from wrongful injury the person or property of oneself, or of a wife, husband, child, parent, or other relative, or member of one's family, or of a ward, servant, master, or guest.

Cal. Civ. Code §52.1. (a) If a person or persons, whether or not acting under color of law, interferes by threats, intimidation, or coercion, or attempts to interfere by threats, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state, the Attorney General, or any district attorney or city attorney may bring a civil action for injunctive and other appropriate equitable relief in the name of the people of the State of California, in order to protect the peaceable exercise or enjoyment of the right or rights secured. An action brought by the Attorney General, any district attorney, or any city attorney may also seek a civil penalty of twenty-five thousand dollars (\$25,000). If

this civil penalty is requested, it shall be assessed individually against each person who is determined to have violated this section and the penalty shall be awarded to each individual whose rights under this section are determined to have been violated.

(b) Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, as described in subdivision (a), may institute and prosecute in his or her own name and on his or her own behalf a civil action for damages, including, but not limited to, damages under Section 52, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured.

Cal. Civ. Code §52.3. (a) No governmental authority, or agent of a governmental authority, or person acting on behalf of a governmental authority, shall engage in a pattern or practice of conduct by law enforcement officers that deprives any person of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States or by the Constitution or laws of California.

(b) The Attorney General may bring a civil action in the name of the people to obtain appropriate equitable and declaratory relief to eliminate the pattern or practice of conduct specified in subdivision (a), whenever the Attorney General has reasonable cause to believe that a violation of subdivision (a) has occurred.

Cal. Civ. Code §678. The ownership of property is either:

1. Absolute; or,
2. Qualified.

Cal. Civ. Code §679. The ownership of property is absolute when a single person has the absolute dominion over it, and may use it or dispose of it according to his pleasure, subject only to general laws.

Cal. Civ. Code §680. The ownership of property is qualified:

1. When it is shared with one or more persons;
2. When the time of enjoyment is deferred or limited;
3. When the use is restricted

Cal. Civ. Code §1427. An obligation is a legal duty, by which a person is bound to do or not to do a certain thing.

Cal. Civ. Code §1428. An obligation arises either from:

One – The contract of the parties; or,

Two – The operation of law. An obligation arising from operation of law may be enforced in the manner provided by law, or by civil action or proceeding.

Cal. Civ. Code §1549. A contract is an agreement to do or not to do a certain thing.

Cal. Civ. Code §1550. It is essential to the existence of a contract that there should be:

1. Parties capable of contracting;
2. Their consent;
3. A lawful object; and,
4. A sufficient cause or consideration.

Cal. Civ. Code §1565. The consent of the parties to a contract must be:

1. Free;
2. Mutual; and,
3. Communicated by each to the other.

Cal. Civ. Code §1566. A consent which is not free is nevertheless not absolutely void, but may be rescinded by the parties, in the manner prescribed by the Chapter on Rescission.

Cal. Civ. Code §1567. An apparent consent is not real or free when obtained through:

1. Duress;
2. Menace;
3. Fraud;
4. Undue influence; or,
5. Mistake.

Cal. Civ. Code §1568. Consent is deemed to have been obtained through one of the causes mentioned in the last section only when it would not have been given had such cause not existed.

Cal. Civ. Code §1569. Duress consists in:

1. Unlawful confinement of the person of the party, or of the husband or wife of such party, or of an ancestor, descendant, or adopted child of such party, husband, or wife;
2. Unlawful detention of the property of any such person; or,
3. Confinement of such person, lawful in form, but fraudulently obtained, or fraudulently made unjustly harrassing or oppressive.

Cal. Civ. Code §1570. Menace consists in a threat:

1. Of such duress as is specified in Subdivisions 1 and 3 of the last section;
2. Of unlawful and violent injury to the person or property of any such person as is specified in the last section; or,
3. Of injury to the character of any such person.

Cal. Civ. Code §1571. Fraud is either actual or constructive.

Cal. Civ. Code §1572. Actual fraud, within the meaning of this Chapter, consists in any of the following acts, committed by a party to the contract, or with his connivance, with intent to deceive another party thereto, or to induce him to enter into the contract:

1. The suggestion, as a fact, of that which is not true, by one who does not believe it to be true;
2. The positive assertion, in a manner not warranted by the information of the person making it, of that which is not true, though he believes it to be true;
3. The suppression of that which is true, by one having knowledge or belief of the fact;
4. A promise made without any intention of performing it; or,
5. Any other act fitted to deceive.

Cal. Civ. Code §1573. Constructive fraud consists:

1. In any breach of duty which, without an actually fraudulent intent, gains an advantage to the person in fault, or any one claiming under him, by misleading another to his prejudice, or to the prejudice of any one claiming under him; or,
2. In any such act or omission as the law specially declares to be fraudulent, without respect to actual fraud.

Cal. Civ. Code §1574. Actual fraud is always a question of fact.

Cal. Civ. Code §1575. Undue influence consists:

1. In the use, by one in whom a confidence is reposed by another, or who holds a real or apparent authority over him, of such confidence or authority for the purpose of obtaining an unfair advantage over him;
2. In taking an unfair advantage of another's weakness of mind; or,
3. In taking a grossly oppressive and unfair advantage of another's necessities or distress.

Cal. Civ. Code §1576. Mistake may be either of fact or law.

Cal. Civ. Code §1577. Mistake of fact is a mistake, not caused by the neglect of a legal duty on the part of the person making the mistake, and consisting in:

1. An unconscious ignorance or forgetfulness of a fact past or present, material to the contract; or,
2. Belief in the present existence of a thing material to the contract, which does not exist, or in the past existence of such a thing, which has not existed.

Cal. Civ. Code §1578. Mistake of law constitutes a mistake, within the meaning of this Article, only when it arises from:

1. A misapprehension of the law by all parties, all supposing that they knew and understood it, and all making substantially the same mistake as to the law; or,
2. A misapprehension of the law by one party, of which the others are aware at the time of contracting, but which they do not rectify.

Cal. Civ. Code §1580. Consent is not mutual, unless the parties all agree upon the same thing in the same sense. But in certain cases defined by the Chapter on Interpretation, they are to be deemed so to agree without regard to the fact.

Cal. Civ. Code §1581. Consent can be communicated with effect, only by some act or omission of the party contracting, by which he intends to communicate it, or which necessarily tends to such communication.

PART 3. PERSONAL OR MOVABLE PROPERTY

TITLE 1. PERSONAL PROPERTY IN GENERAL

Cal. Civ. Code §1689.5. As used in Sections 1689.6 to 1689.11, inclusive, and in Section 1689.14:

(c) "Goods" means tangible chattels bought for use primarily for personal, family, or household purposes, including certificates or coupons exchangeable for these goods, and including goods that, at the time of the sale or subsequently, are to be so affixed to real property as to become a part of the real property whether or not severable therefrom, but does not include any vehicle required to be registered under the Vehicle Code, nor any goods sold with this vehicle if sold under a contract governed by Section 2982, and does not include any mobilehome, as defined in Section 18008 of the Health and Safety Code, nor any goods sold with this mobilehome if either are sold under a contract subject to Section 18036.5 of the Health and Safety Code.

Cal. Civ. Code §1708. Every person is bound, without contract, to abstain from injuring the person or property of another, or infringing upon any of his or her rights.

Cal. Civ. Code §1709. One who willfully deceives another with intent to induce him to alter his position to his injury or risk, is liable for any damage which he thereby suffers.

Cal. Civ. Code §1710. A deceit, within the meaning of the last section, is either:

1. The suggestion, as a fact, of that which is not true, by one who does not believe it to be true;
2. The assertion, as a fact, of that which is not true, by one who has no reasonable ground for believing it to be true;
3. The suppression of a fact, by one who is bound to disclose it, or who gives information of other facts which are likely to mislead for want of communication of that fact; or,
4. A promise, made without any intention of performing it.

Cal. Civ. Code §1711. One who practices a deceit with intent to defraud the public, or a particular class of persons, is deemed to have intended to defraud every individual in that class, who is actually misled by the deceit.

Cal. Civ. Code §1712. One who obtains a thing without the consent of its owner, or by a consent afterwards rescinded, or by an unlawful exaction which the owner could not at the time prudently refuse, must restore it to the person from whom it was thus obtained, unless he has acquired a title thereto superior to that of such other person, or unless the transaction was corrupt and unlawful on both sides.

Cal. Civ. Code §1713. The restoration required by the last section must be made without demand, except where a thing is obtained by mutual mistake, in which case the party obtaining the thing is not bound to return it until he has notice of the mistake.

Cal. Civ. Code §1714. (a) Everyone is responsible, not only for the result of his or her willful acts, but also for an injury occasioned to another by his or her want of ordinary care or skill in the management of his or her property or person, except so far as the latter has, willfully or by want of ordinary care, brought the injury upon himself or herself. The design, distribution, or marketing of firearms and ammunition is not exempt from the duty to use ordinary care and skill that is required by this section. The extent of liability in these cases is defined by the Title on Compensatory Relief.

Cal. Civ. Code §1791. As used in this chapter:

(a) "Consumer goods" means any new product or part thereof that is used, bought, or leased for use primarily for personal, family, or household purposes, except for clothing and consumables. "Consumer goods" shall include new and used assistive devices sold at retail.

Cal. Civ. Code §3294. (a) In an action for the breach of an obligation not arising from contract, where it is proven by clear and convincing evidence that the defendant has been guilty of

oppression, fraud, or malice, the plaintiff, in addition to the actual damages, may recover damages for the sake of example and by way of punishing the defendant.

(c) As used in this section, the following definitions shall apply:

(1) "Malice" means conduct which is intended by the defendant to cause injury to the plaintiff or despicable conduct which is carried on by the defendant with a willful and conscious disregard of the rights or safety of others.

(2) "Oppression" means despicable conduct that subjects a person to cruel and unjust hardship in conscious disregard of that person's rights.

(3) "Fraud" means an intentional misrepresentation, deceit, or concealment of a material fact known to the defendant with the intention on the part of the defendant of thereby depriving a person of property or legal rights or otherwise causing injury.

Cal. Civ. Code §1798.45. An individual may bring a civil action against an agency whenever such agency does any of the following:

(a) Refuses to comply with an individual's lawful request to inspect pursuant to subdivision (a) of Section 1798.34.

(b) Fails to maintain any record concerning any individual with such accuracy, relevancy, timeliness, and completeness as is necessary to assure fairness in any determination relating to the qualifications, character, rights, opportunities of, or benefits to the individual that may be made on the basis of such record, if, as a proximate result of such failure, a determination is made which is adverse to the individual.

(c) Fails to comply with any other provision of this chapter, or any rule promulgated thereunder, in such a way as to have an adverse effect on an individual.

Cal. Civ. Code §2881. A lien is created:

1. By contract of the parties; or,
2. By operation of law.

Cal. Civ. Code §3281. Every person who suffers detriment from the unlawful act or omission of another, may recover from the person in fault a compensation therefor in money, which is called damages.

Cal. Civ. Code §3282. Detriment is a loss or harm suffered in person or property.

Cal. Civ. Code §3283. Damages may be awarded, in a judicial proceeding, for detriment resulting after the commencement thereof, or certain to result in the future.

Cal. Civ. Code §3336. The detriment caused by the wrongful conversion of personal property is presumed to be:

First--The value of the property at the time of the conversion, with the interest from that time, or, an amount sufficient to indemnify the party injured for the loss which is the natural, reasonable and proximate result of the wrongful act complained of and which a proper degree of prudence on his part would not have averted; and

Second--A fair compensation for the time and money properly expended in pursuit of the property.

Cal. Civ. Code §3366. Specific or preventive relief may be given as provided by the laws of this state.

Cal. Civ. Code §3367. Specific relief is given:

1. By taking possession of a thing, and delivering it to a claimant;
2. By compelling a party himself to do that which ought to be done; or,
3. By declaring and determining the rights of parties, otherwise than by an award of damages.

Cal. Civ. Code §3368. Preventive relief is given by prohibiting a party from doing that which ought not to be done.

Cal. Civ. Code §3369. Neither specific nor preventive relief can be granted to enforce a penalty or forfeiture in any case, nor to enforce a penal law, except in a case of nuisance or as otherwise provided by law.

Cal. Civ. Code §3479. Anything which is injurious to health, including, but not limited to, the illegal sale of controlled substances, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway, is a nuisance.

Cal. Civ. Code §3480. A public nuisance is one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

Cal. Civ. Code §3481. Every nuisance not included in the definition of the last section is private.

Cal. Civ. Code §3490. No lapse of time can legalize a public nuisance, amounting to an actual obstruction of public right.

Cal. Civ. Code §3491. The remedies against a public nuisance are:

1. Indictment or information;
2. A civil action; or,
3. Abatement.

Cal. Civ. Code §3492. The remedy by indictment or information is regulated by the Penal Code.

Cal. Civ. Code §3493. A private person may maintain an action for a public nuisance, if it is specially injurious to himself, but not otherwise.

Cal. Civ. Code §3494. A public nuisance may be abated by any public body or officer authorized thereto by law.

Cal. Civ. Code §3495. Any person may abate a public nuisance which is specially injurious to him by removing, or, if necessary, destroying the thing which constitutes the same, without committing a breach of the peace, or doing unnecessary injury.

Cal. Civ. Code §3501. The remedies against a private nuisance are:

1. A civil action; or,
2. Abatement.

Cal. Civ. Code §3502. A person injured by a private nuisance may abate it by removing, or, if necessary, destroying the thing which constitutes the nuisance, without committing a breach of the peace, or doing unnecessary injury.

Cal. Civ. Code §3503. Where a private nuisance results from a mere omission of the wrongdoer, and cannot be abated without entering upon his land, reasonable notice must be given to him before entering to abate it.

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## CALIFORNIA CODE OF CIVIL PROCEDURE

**Cal. Code Of Civ. Proc. §22.** An action is an ordinary proceeding in a court of justice by which one party prosecutes another for the declaration, enforcement, or protection of a right, the redress or prevention of a wrong, or the punishment of a public offense.

**Cal. Code Of Civ. Proc. §24.** Actions are of two kinds:

1. Civil; and,
2. Criminal.

**Cal. Code Of Civ. Proc. §25.** A civil action arises out of:

1. An obligation;
2. An injury.

**Cal. Code Of Civ. Proc. §26.** An obligation is a legal duty, by which one person is bound to do or not to do a certain thing, and arises from:

- One – Contract; or,
- Two – Operation of law.

**Cal. Code Of Civ. Proc. §27.** An injury is of two kinds:

1. To the person; and,
2. To property.

**Cal. Code Of Civ. Proc. §28.** An injury to property consists in depriving its owner of the benefit of it, which is done by taking, withholding, deteriorating, or destroying it.

**Cal. Code Of Civ. Proc. §29.** Every other injury is an injury to the person.

## **TITLE 6.5. ATTACHMENT**

### **CHAPTER 1. WORDS AND PHRASES DEFINED ..... 481.010- 481.225**

**Cal. Code Of Civ. Proc. §481.100.** "**Equipment**" means tangible personal property in the possession of the defendant and used or bought for use primarily in the defendant's trade, business, or profession if it is not included in the definitions of inventory or farm products.

**Cal. Code Of Civ. Proc. §481.195.** "**Property**" includes real and personal property and any interest therein.

**Cal. Code Of Civ. Proc. §1060.** Any person interested under a written instrument, excluding a will or a trust, or under a contract, or who desires a declaration of his or her rights or duties

with respect to another, or in respect to, in, over or upon property, or with respect to the location of the natural channel of a watercourse, may, in cases of actual controversy relating to the legal rights and duties of the respective parties, bring an original action or cross-complaint in the superior court or in the municipal court to the extent allowed pursuant to Article 1 (commencing with Section 85) of Chapter 5.1 of Title 1 of Part 1 for a declaration of his or her rights and duties in the premises, including a determination of any question of construction or validity arising under the instrument or contract. He or she may ask for a declaration of rights or duties, either alone or with other relief; and the court may make a binding declaration of these rights or duties, whether or not further relief is or could be claimed at the time. The declaration may be either affirmative or negative in form and effect, and the declaration shall have the force of a final judgment. The declaration may be had before there has been any breach of the obligation in respect to which said declaration is sought.

**Cal. Code Of Civ. Proc. §1866.** When a statute or instrument is equally susceptible of two interpretations, one in favor of natural right, and the other against it, the former is to be adopted.

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CALIFORNIA COMMERCIAL CODE

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Cal. Comm. Code §3501. (a) "Presentment" means a demand made by or on behalf of a person entitled to enforce an instrument (1) to pay the instrument made to the drawee or a party obliged to pay the instrument or, in the case of a note or accepted draft payable at a bank, to the bank, or (2) to accept a draft made to the drawee.

(b) The following rules are subject to Division 4 (commencing with Section 4101), agreement of the parties, and clearinghouse rules and the like:

(1) Presentment may be made at the place of payment of the instrument and shall be made at the place of payment if the instrument is payable at a bank in the United States; may be made by any commercially reasonable means, including an oral, written, or electronic communication; is effective when the demand for payment or acceptance is received by the person to whom presentment is made; and is effective if made to any one of two or more makers, acceptors, drawees, or other payors.

(2) Upon demand of the person to whom presentment is made, the person making presentment shall (A) exhibit the instrument, (B) give reasonable identification and, if

presentment is made on behalf of another person, reasonable evidence of authority to do so, and (C) sign a receipt on the instrument for any payment made or surrender the instrument if full payment is made.

(3) **Without dishonoring the instrument, the party to whom presentment is made may (A) return the instrument for lack of a necessary indorsement, or (B) refuse payment or acceptance for failure of the presentment to comply with the terms of the instrument, an agreement of the parties, or other applicable law or rule.**

(4) The party to whom presentment is made may treat presentment as occurring on the next business day after the day of presentment if the party to whom presentment is made has established a cutoff hour not earlier than 2 p.m. for the receipt and processing of instruments presented for payment or acceptance and presentment is made after the cutoff hour.

Cal. Comm. Code §9109. Classification of Goods: "Consumer goods"; "Equipment"; "Farm Products"; "Inventory"

Goods are

(1) "Consumer goods" if they are used or bought for use primarily for personal, family or household purposes;

(2) "Equipment" if they are used or bought for the use primarily in business (including farming or a profession) or by a debtor who is a nonprofit organization or a government subdivision or agency or if the goods are not included in the definitions of inventory, farm products, or consumer goods.

California Code Comment

By John A. Bohn and Charles J. Williams

Prior California Law

1. The classification of goods in this section is new statutory law. The significance of this classification is described in Official Comment 1.

Although goods cannot belong to more than one category at any time, they may change their classification depending upon who holds them and for what reason. Each classification is mutually exclusive but the four classifications described are intended to include all goods.

Official Comment 2.

Cal. Comm. Code §9320. (a) Except as otherwise provided in subdivision (e), a buyer in ordinary course of business takes free of a security interest created by the buyer's seller, even if the security interest is perfected and the buyer knows of its existence.

(b) Except as otherwise provided in subdivision (e), a buyer of goods from a person who used or bought the goods for use primarily for personal, family, or household purposes takes free of a security interest, even if perfected, if all of the following conditions are satisfied:

- (1) The buyer buys without knowledge of the security interest.
- (2) The buyer buys for value.
- (3) The buyer buys primarily for the buyer's personal, family, or household purposes.

Cal. Comm. Code §19006.1. "Seating furniture," including children's furniture, movable or stationary, means any furniture, which is made or sold with or without filling material, together with the structural units, which may be used as a support for the body, limbs, or feet when sitting or resting in an upright or reclining position.

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## CALIFORNIA EVIDENCE CODE

**Cal. Evidence Code §11.** "Shall" is mandatory and "may" is permissive.

**Cal. Evidence Code §160.** "Law" includes constitutional, statutory, and decisional law.

**Cal. Evidence Code §180.** "Personal property" includes money, goods, chattels, things in action, and evidences of debt.

**Cal. Evidence Code §185.** "Property" includes both real and personal property.

**Cal. Evidence Code §190.** "Proof" is the establishment by evidence of a requisite degree of belief concerning a fact in the mind of the trier of fact or the court.

**Cal. Evidence Code §195.** "Public employee" means an officer, agent, or employee of a public entity.

**Cal. Evidence Code §200.** "Public entity" includes a nation, state, county, city and county, city, district, public authority, public agency, or any other political subdivision or public corporation, whether foreign or domestic.

**Cal. Evidence Code §520.** The party claiming that a person is guilty of crime or wrongdoing has the burden of proof on that issue.

**Cal. Evidence Code §521.** The party claiming that a person did not exercise a requisite degree of care has the burden of proof on that issue.

**Cal. Evidence Code §601.** A presumption is either conclusive or rebuttable.

**Cal. Evidence Code §623.** Whenever a party has, by his own statement or conduct, intentionally and deliberately led another to believe a particular thing true and to act upon such belief, he is not, in any litigation arising out of such statement or conduct, permitted to contradict it.

**Cal. Evidence Code §641.** A letter correctly addressed and properly mailed is presumed to have been received in the ordinary course of mail.

**Cal. Evidence Code §662.** The owner of the legal title to property is presumed to be the owner of the full beneficial title. This presumption may be rebutted only by clear and convincing proof.

**Cal. Evidence Code §664.** It is presumed that official duty has been regularly performed. This presumption does not apply on an issue as to the lawfulness of an arrest if it is found or otherwise established that the arrest was made without a warrant.

**Cal. Evidence Code §665.** A person is presumed to intend the ordinary consequences of his voluntary act. This presumption is inapplicable in a criminal action to establish the specific intent of the defendant where specific intent is an element of the crime charged.

**Cal. Evidence Code §669.** (a) The failure of a person to exercise due care is presumed if:

- (1) He violated a statute, ordinance, or regulation of a public entity;
- (2) The violation proximately caused death or injury to person or property;
- (3) The death or injury resulted from an occurrence of the nature which the statute, ordinance, or regulation was designed to prevent; and
- (4) The person suffering the death or the injury to his person or property was one of the class of persons for whose protection the statute, ordinance, or regulation was adopted.

(b) This presumption may be rebutted by proof that:

- (1) The person violating the statute, ordinance, or regulation did what might reasonably be expected of a person of ordinary prudence, acting under similar circumstances, who desired to comply with the law; or
- (2) The person violating the statute, ordinance, or regulation was a child and exercised the degree of care ordinarily exercised by persons of his maturity, intelligence, and capacity under similar circumstances, but the presumption may not be rebutted by such proof if the violation occurred in the course of an activity normally engaged in only by adults and requiring adult qualifications.

**Cal. Evidence Code §701.** (a) A person is disqualified to be a witness if he or she is:

- (1) Incapable of expressing himself or herself concerning the matter so as to be understood, either directly or through interpretation by one who can understand him; or
- (2) Incapable of understanding the duty of a witness to tell the truth.

(b) In any proceeding held outside the presence of a jury, the court may reserve challenges to the competency of a witness until the conclusion of the direct examination of that witness.

**Cal. Evidence Code §702.** (a) Subject to Section 801, the testimony of a witness concerning a particular matter is inadmissible unless he has personal knowledge of the matter. Against the objection of a party, such personal knowledge must be shown before the witness may testify concerning the matter.

**Cal. Evidence Code §785.** The credibility of a witness may be attacked or supported by any party, including the party calling him.

**Cal. Evidence Code §940.** To the extent that such privilege exists under the Constitution of the United States or the State of California, a person has a privilege to refuse to disclose any matter that may tend to incriminate him.

**Cal. Evidence Code §1200.** (a) "Hearsay evidence" is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter stated.

(b) Except as provided by law, hearsay evidence is inadmissible.

(c) This section shall be known and may be cited as the hearsay rule.

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CALIFORNIA HEALTH AND SAFETY CODE

Cal. Health & Safety Code §11357. (b) Except as authorized by law, every person who possesses not more than 28.5 grams of marijuana, other than concentrated cannabis, is guilty of an infraction punishable by a fine of not more than one hundred dollars (\$100).

Cal. Health & Safety Code §11358. Every person who plants, cultivates, harvests, dries, or processes any marijuana or any part thereof, except as otherwise provided by law, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code.

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## CALIFORNIA PENAL CODE

**Cal. Penal Code §16.** Crimes and public offenses include:

1. Felonies;
2. Misdemeanors; and
3. Infractions.

**Cal. Penal Code §19.6.** An infraction is not punishable by imprisonment. A person charged with an infraction shall not be entitled to a trial by jury. A person charged with an infraction shall not be entitled to have the public defender or other counsel appointed at public expense to represent him or her unless he or she is arrested and not released on his or her written promise to appear, his or her own recognizance, or a deposit of bail.

**Cal. Penal Code §19.7.** Except as otherwise provided by law, all provisions of law relating to misdemeanors shall apply to infractions including, but not limited to, powers of peace officers, jurisdiction of courts, periods for commencing action and for bringing a case to trial and burden of proof.

**Cal. Penal Code §20.** In every crime or public offense there must exist a union, or joint operation of act and intent\*, or criminal negligence.

\* Mens rea, scienter

**Cal. Penal Code §21a.** An attempt to commit a crime consists of two elements: a specific intent to commit the crime, and a direct but ineffectual act done toward its commission.

**Cal. Penal Code §146.** Every public officer, or person pretending to be a public officer, who, under the pretense or color of any process or other legal authority, does any of the following, without a regular process or other lawful authority, is guilty of a misdemeanor:

- (a) Arrests any person or detains that person against his or her will.
- (b) Seizes or levies upon any property.
- (c) Dispossesses any one of any lands or tenements.

**Cal. Penal Code §148.** (a)(1) Every person who willfully resists, delays, or obstructs any public officer, peace officer, or an emergency medical technician, as defined in Division 2.5 (commencing with Section 1797) of the Health and Safety Code, in the discharge or attempt to discharge any duty of his or her office or employment, when no other punishment is prescribed, shall be punished by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment.

“[I]f a defendant is charged with violating section 148 and the arrest is found to be unlawful, a defendant cannot be convicted of that section.”

***People v. White*** (1980), 101 Cal.App.3d 161

**Cal. Penal Code §211.** Robbery is the felonious taking of personal property in the possession of another, from his person or immediate presence, and against his will, accomplished by means of force or fear.

**Cal. Penal Code §213.** (a) Robbery is punishable as follows:

(1) Robbery of the first degree is punishable as follows:

(A) If the defendant, voluntarily acting in concert with two or more other persons, commits the robbery within an inhabited dwelling house, a vessel as defined in Section 21 of the Harbors and Navigation Code, which is inhabited and designed for habitation, an inhabited floating home as defined in subdivision (d) of Section 18075.55 of the Health and Safety Code, a trailer coach as defined in the Vehicle Code, which is inhabited, or the inhabited portion of any other building, by imprisonment in the state prison for three, six, or nine years.

(B) In all cases other than that specified in subparagraph (A), by imprisonment in the state prison for three, four, or six years.

(2) Robbery of the second degree is punishable by imprisonment in the state prison for two, three, or five years.

(b) Notwithstanding Section 664, attempted robbery in violation of paragraph (2) of subdivision (a) is punishable by imprisonment in the state prison.

**Cal. Penal Code §236.** False imprisonment is the unlawful violation of the personal liberty of another.

**Cal. Penal Code §237.** (a) False imprisonment is punishable by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in the county jail for not more than one year, or by both that fine and imprisonment. If the false imprisonment be effected by violence, menace, fraud, or deceit, it shall be punishable by imprisonment in the state prison.

**Cal. Penal Code §240.** An assault is an unlawful attempt, coupled with a present ability, to commit a violent injury on the person of another.

**Cal. Penal Code §242.** A battery is any willful and unlawful use of force or violence upon the person of another.

**Cal. Penal Code §484.** (a) Every person who shall feloniously steal, take, carry, lead, or drive away the personal property of another, or who shall fraudulently appropriate property which has been entrusted to him, or who shall knowingly and designedly, by any false or fraudulent representation or pretense, defraud any other person of money, labor or real or personal property, or who causes or procures others to report falsely of his wealth or mercantile character and by thus imposing upon any person, obtains credit and thereby fraudulently gets or obtains possession of money, or property or obtains the labor or service of another, is guilty of theft. In determining the value of the property obtained, for the purposes of this section, the reasonable and fair market value shall be the test, and in determining the value of services received the contract price shall be the test. If there be no contract price, the reasonable and going wage for the service rendered shall govern. For the purposes of this section, any false or fraudulent representation or pretense made shall be treated as continuing, so as to cover any money, property or service received as a result thereof, and the complaint, information or indictment may charge that the crime was committed on any date during the particular period in question. The hiring of any additional employee or employees without advising each of them of every labor claim due and unpaid and every judgment that the employer has been unable to meet shall be prima facie evidence of intent to defraud.

(b) Except as provided in Section 10855 of the Vehicle Code, intent to commit theft by fraud is presumed if one who has leased or rented the personal property of another pursuant to a written contract fails to return the personal property to its owner within 20 days after the owner has made written demand by certified or registered mail following the expiration of the lease or rental agreement for return of the property so leased or rented.

(c) Notwithstanding the provisions of subdivision (b), if one presents with criminal intent identification which bears a false or fictitious name or address for the purpose of obtaining the lease or rental of the personal property of another, the presumption created herein shall apply upon the failure of the lessee to return the rental property at the expiration of the lease or rental agreement, and no written demand for the return of the leased or rented property shall be required.

(d) The presumptions created by subdivisions (b) and (c) are presumptions affecting the burden of producing evidence.

(e) Within 30 days after the lease or rental agreement has expired, the owner shall make written demand for return of the property so leased or rented. Notice addressed and mailed to the lessee or renter at the address given at the time of the making of the lease or rental agreement and to any other known address shall constitute proper demand. Where the owner fails to make such written demand the presumption created by subdivision (b) shall not apply.

**Cal. Penal Code §484d.** As used in this section and Sections 484e to 484j, inclusive:

(9) "Traffic" means to transfer or otherwise dispose of property to another, or to obtain control of property with intent to transfer or dispose of it to another.

**Cal. Penal Code §486.** Theft is divided into two degrees, the first of which is termed grand theft; the second, petty theft.

**Cal. Penal Code §487.** Grand theft is theft committed in any of the following cases:

(a) When the money, labor, or real or personal property taken is of a value exceeding four hundred dollars (\$400), except as provided in subdivision (b).

(c) When the property is taken from the person of another.

**Cal. Penal Code §490a.** Wherever any law or statute of this state refers to or mentions larceny, embezzlement, or stealing, said law or statute shall hereafter be read and interpreted as if the word "theft" were substituted therefor.

**Cal. Penal Code §518.** Extortion is the obtaining of property from another, with his consent, or the obtaining of an official act of a public officer, induced by a wrongful use of force or fear, or under color of official right.

**Cal. Penal Code §519.** Fear, such as will constitute extortion, may be induced by a threat, either:

1. To do an unlawful injury to the person or property of the individual threatened or of a third person; or,
2. To accuse the individual threatened, or a relative of his or her, or member of his or her family, of a crime; or,
3. To expose, or to impute to him, her, or them a deformity, disgrace, or crime; or,
4. To expose a secret affecting him, her, or them; or,
5. To report his, her, or their immigration status or suspected immigration status.

**Cal. Penal Code §520.** Every person who extorts any money or other property from another, under circumstances not amounting to robbery or carjacking, by means of force, or any threat, such as is mentioned in Section 519, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 for two, three or four years.

**Cal. Penal Code §521.** Every person who commits any extortion under color of official right, in cases for which a different punishment is not prescribed in this Code, is guilty of a misdemeanor.

**Cal. Penal Code §522.** Every person who, by any extortionate means, obtains from another his signature to any paper or instrument, whereby, if such signature were freely given, any



property would be transferred, or any debt, demand, charge, or right of action created, is punishable in the same manner as if the actual delivery of such debt, demand, charge, or right of action were obtained.

**Cal. Penal Code §523.** Every person who, with intent to extort any money or other property from another, sends or delivers to any person any letter or other writing, whether subscribed or not, expressing or implying, or adapted to imply, any threat such as is specified in Section 519, is punishable in the same manner as if such money or property were actually obtained by means of such threat.

**Cal. Penal Code §524.** Every person who attempts, by means of any threat, such as is specified in Section 519 of this code, to extort money or other property from another is punishable by imprisonment in the county jail not longer than one year or in the state prison or by fine not exceeding ten thousand dollars (\$10,000), or by both such fine and imprisonment.

**Cal. Penal Code §529.** Every person who falsely personates another in either his private or official capacity, and in such assumed character either:

1. Becomes bail or surety for any party in any proceeding whatever, before any court or officer authorized to take such bail or surety;
2. Verifies, publishes, acknowledges, or proves, in the name of another person, any written instrument, with intent that the same may be recorded, delivered, or used as true; or,
3. Does any other act whereby, if done by the person falsely personated, he might, in any event, become liable to any suit or prosecution, or to pay any sum of money, or to incur any charge, forfeiture, or penalty, or whereby any benefit might accrue to the party personating, or to any other person;

Is punishable by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both such fine and imprisonment.

**Cal. Penal Code §530.** Every person who falsely personates another, in either his private or official capacity, and in such assumed character receives any money or property, knowing that it is intended to be delivered to the individual so personated, with intent to convert the same to his own use, or to that of another person, or to deprive the true owner thereof, is punishable in the same manner and to the same extent as for larceny of the money or property so received.

**Cal. Penal Code §532.** (a) Every person who knowingly and designedly, by any false or fraudulent representation or pretense, defrauds any other person of money, labor, or property, whether real or personal, or who causes or procures others to report falsely of his or

her wealth or mercantile character, and by thus imposing upon any person obtains credit, and thereby fraudulently gets possession of money or property, or obtains the labor or service of another, is punishable in the same manner and to the same extent as for larceny of the money or property so obtained.

**Cal. Penal Code §630.** ...The Legislature by this chapter intends to protect the right of privacy of the people of this state.

**Cal. Penal Code §687.** Double jeopardy second prosecution for the same offense prohibited. No person can be subjected to a second prosecution for a public offense for which he has once been prosecuted and convicted or acquitted".

**Cal. Penal Code §689.** No person can be convicted of a public offense unless by verdict of a jury, accepted and recorded by the court, by a finding of the court in a case where a jury has been waived, or by a plea of guilty.

**Cal. Penal Code §691.** The following words have in Part 2 (commencing with Section 681) the signification attached to them in this section, unless it is otherwise apparent from the context:

(c) The words "accusatory pleading" include an indictment, an information, an accusation, and a complaint.

**Cal. Penal Code §692.** Lawful resistance to the commission of a public offense may be made:

1. By the party about to be injured;
2. By other parties.

**Cal. Penal Code §693.** Resistance sufficient to prevent the offense may be made by the party about to be injured:

1. To prevent an offense against his person, or his family, or some member thereof.
2. To prevent an illegal attempt by force to take or injure property in his lawful possession.

**Cal. Penal Code §694.** Any other person, in aid or defense of the person about to be injured, may make resistance sufficient to prevent the offense.

**Cal. Penal Code §835.** An arrest is made by an actual restraint of the person, or by submission to the custody of an officer. The person arrested may be subjected to such restraint as is reasonable for his arrest and detention.

**Cal. Penal Code §835a.** Any peace officer who has reasonable cause to believe that the person

to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance.

A peace officer who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.

**Cal. Penal Code §836.** (a) A peace officer may arrest a person in obedience to a warrant, or, pursuant to the authority granted to him or her by Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, without a warrant, may arrest a person whenever any of the following circumstances occur:

(1) The officer has probable cause to believe that the person to be arrested has committed a public offense in the officer's presence.

**Cal. Govt. Code §13951(b)(1).** Crime means a crime or public offense, wherever it may take place,

...infractions are not crimes...

*People v. Sava* (1987) 190 Cal.App.3d 935

**Cal. Penal Code §836.5.** (a) A public officer or employee, when authorized by ordinance, may arrest a person without a warrant whenever the officer or employee has reasonable cause to believe that the person to be arrested has committed a misdemeanor in the presence of the officer or employee that is a violation of a statute or ordinance that the officer or employee has the duty to enforce.

(b) There shall be no civil liability on the part of, and no cause of action shall arise against, any public officer or employee acting pursuant to subdivision (a) and within the scope of his or her authority for false arrest or false imprisonment arising out of any arrest that is lawful or that the public officer or employee, at the time of the arrest, had reasonable cause to believe was lawful. No officer or employee shall be deemed an aggressor or lose his or her right to self-defense by the use of reasonable force to effect the arrest, prevent escape, or overcome resistance.

(c) In any case in which a person is arrested pursuant to subdivision (a) and the person arrested does not demand to be taken before a magistrate, the public officer or employee making the arrest shall prepare a written notice to appear and release the person on his or her promise to appear, as prescribed by Chapter 5C (commencing with Section 853.5). The provisions of that chapter shall thereafter apply with reference to any proceeding based upon the issuance of a written notice to appear pursuant to this authority.

(d) The governing body of a local agency, by ordinance, may authorize its officers and employees who have the duty to enforce a statute or ordinance to arrest persons for violations

of the statute or ordinance as provided in subdivision (a).

(e) For purposes of this section, "ordinance" includes an order, rule, or regulation of any air pollution control district.

(f) For purposes of this section, a "public officer or employee" includes an officer or employee of a nonprofit transit corporation wholly owned by a local agency and formed to carry out the purposes of the local agency.

**Cal. Penal Code §837.** A private person may arrest another:

1. For a public offense committed or attempted in his presence.

**Cal. Govt. Code §13951(b)(1).** Crime means a crime or public offense, wherever it may take place,

**Cal. Penal Code §849.** (a) When an arrest is made without a warrant by a peace officer or private person, the person arrested, if not otherwise released, shall, without unnecessary delay, be taken before the nearest or most accessible magistrate in the county in which the offense is triable, and a complaint stating the charge against the arrested person shall be laid before such magistrate.

(b) Any peace officer may release from custody, instead of taking such person before a magistrate, any person arrested without a warrant whenever:

- (1) He or she is satisfied that there are insufficient grounds for making a criminal complaint against the person arrested.

**Cal. Penal Code §849.5.** In any case in which a person is arrested and released and no accusatory pleading is filed charging him with an offense, any record of arrest of the person shall include a record of release. Thereafter, the arrest shall not be deemed an arrest, but a detention only.

**Cal. Penal Code §841.** The person making the arrest must inform the person to be arrested of the intention to arrest him, of the cause of the arrest, and the authority to make it, except when the person making the arrest has reasonable cause to believe that the person to be arrested is actually engaged in the commission of or an attempt to commit an offense, or the person to be arrested is pursued immediately after its commission, or after an escape.

The person making the arrest must, on request of the person he is arresting, inform the latter of the offense for which he is being arrested.

**Cal. Penal Code §853.6.** (a) In any case in which a person is arrested for an offense declared to be a misdemeanor, including a violation of any city or county ordinance, and does not demand to be taken before a magistrate, that person shall, instead of being taken before a magistrate,

be released according to the procedures set forth by this chapter. If the person is released, the officer or superior shall prepare in duplicate a written notice to appear in court, containing the name and address of the person, the offense charged, and the time when, and place where, the person shall appear in court. If, pursuant to subdivision (i), the person is not released prior to being booked and the officer in charge of the booking or his or her superior determines that the person should be released, the officer or superior shall prepare a written notice to appear in a court.

In any case in which a person is arrested for a misdemeanor violation of a protective court order involving domestic violence, as defined in subdivision (b) of Section 13700, or arrested pursuant to a policy, as described in Section 13701, the person shall be taken before a magistrate instead of being released according to the procedures set forth in this chapter, unless the arresting officer determines that there is not a reasonable likelihood that the offense will continue or resume or that the safety of persons or property would be imminently endangered by release of the person arrested. Prior to adopting these provisions, each city, county, or city and county shall develop a protocol to assist officers to determine when arrest and release is appropriate, rather than taking the arrested person before a magistrate. The county shall establish a committee to develop the protocol, consisting of, at a minimum, the police chief or county sheriff within the jurisdiction, the district attorney, county counsel, city attorney, representatives from domestic violence shelters, domestic violence councils, and other relevant community agencies.

Nothing in this subdivision shall be construed to affect a defendant's ability to be released on bail or on his or her own recognizance.

(b) Unless waived by the person, the time specified in the notice to appear shall be at least 10 days after arrest if the duplicate notice is to be filed by the officer with the magistrate.

(c) The place specified in the notice shall be the court of the magistrate before whom the person would be taken if the requirement of taking an arrested person before a magistrate were complied with, or shall be an officer authorized by that court to receive a deposit of bail.

(d) The officer shall deliver one copy of the notice to appear to the arrested person, and the arrested person, in order to secure release, shall give his or her written promise to appear in court as specified in the notice by signing the duplicate notice which shall be retained by the officer, and the officer may require the arrested person, if he or she has no satisfactory identification, to place a right thumbprint, or a left thumbprint or fingerprint if the person has a missing or disfigured right thumb, on the promise to appear. This thumbprint or fingerprint shall not be used to create a data base. Upon the signing of the duplicate notice, the arresting officer shall immediately release the person arrested from custody.

(e) The officer shall, as soon as practicable, file the duplicate notice, as follows:

- (1) It shall be filed with the magistrate if the offense charged is an infraction.
- (2) It shall be filed with the magistrate if the prosecuting attorney has previously directed the officer to do so.
- (3) The duplicate notice and underlying police reports in support of the charge or charges shall be filed with the prosecuting attorney in cases other than those

specified in paragraphs (1) and (2).

If the duplicate notice is filed with the prosecuting attorney, he or she, within his or her discretion, may initiate prosecution by filing the notice or a formal complaint with the magistrate specified in the duplicate notice within 25 days from the time of arrest. If the prosecution is not to be initiated, the prosecutor shall send notice to the person arrested at the address on the notice to appear.

The failure by the prosecutor to file the notice or formal complaint within 25 days of the time of the arrest shall not bar further prosecution of the misdemeanor charged in the notice to appear. However, any further prosecution shall be preceded by a new and separate citation or an arrest warrant.

Upon the filing of the notice with the magistrate by the officer, or the filing of the notice or formal complaint by the prosecutor, the magistrate may fix the amount of bail that in his or her judgment, in accordance with Section 1275, is reasonable and sufficient for the appearance of the defendant and shall endorse upon the notice a statement signed by him or her in the form set forth in Section 815a. The defendant may, prior to the date upon which he or she promised to appear in court, deposit with the magistrate the amount of bail set by the magistrate. At the time the case is called for arraignment before the magistrate, if the defendant does not appear, either in person or by counsel, the magistrate may declare the bail forfeited, and may, in his or her discretion, order that no further proceedings shall be had in the case, unless the defendant has been charged with a violation of Section 374.3 or 374.7 of this code or of Section 11357, 11360, or 13002 of the Health and Safety Code, or a violation punishable under Section 5008.7 of the Public Resources Code, and he or she has previously been convicted of a violation of that section or a violation that is punishable under that section, except in cases where the magistrate finds that undue hardship will be imposed upon the defendant by requiring him or her to appear, the magistrate may declare the bail forfeited and order that no further proceedings be had in the case.

Upon the making of the order that no further proceedings be had, all sums deposited as bail shall immediately be paid into the county treasury for distribution pursuant to Section 1463.

(f) No warrant shall be issued for the arrest of a person who has given a written promise to appear in court, unless and until he or she has violated that promise or has failed to deposit bail, to appear for arraignment, trial, or judgment or to comply with the terms and provisions of the judgment, as required by law.

(g) The officer may book the arrested person prior to release or indicate on the citation that the arrested person shall appear at the arresting agency to be booked or indicate on the citation that the arrested person shall appear at the arresting agency to be fingerprinted prior to the date the arrested person appears in court.

If it is indicated on the citation that the arrested person shall be booked or fingerprinted prior to the date of the person's court appearance, the arresting agency at the time of booking or fingerprinting shall provide the arrested person with verification of the booking or fingerprinting by either making an entry on the citation or providing the arrested person a verification form established by the arresting agency. If it is indicated on the citation that the

arrested person is to be booked or fingerprinted, the magistrate, judge, or court shall, before the proceedings begin, order the defendant to provide verification that he or she was booked or fingerprinted by the arresting agency. If the defendant cannot produce the verification, the magistrate, judge, or court shall require that the defendant be booked or fingerprinted by the arresting agency before the next court appearance, and that the defendant provide the verification at the next court appearance unless both parties stipulate that booking or fingerprinting is not necessary.

(h) A peace officer shall use the written notice to appear procedure set forth in this section for any misdemeanor offense in which the officer has arrested a person without a warrant pursuant to Section 836 or in which he or she has taken custody of a person pursuant to Section 847.

(i) Whenever any person is arrested by a peace officer for a misdemeanor, that person shall be released according to the procedures set forth by this chapter unless one of the following is a reason for nonrelease, in which case the arresting officer may release the person, or the arresting officer shall indicate, on a form to be established by his or her employing law enforcement agency, which of the following was a reason for the nonrelease:

- (1) The person arrested was so intoxicated that he or she could have been a danger to himself or herself or to others.
- (2) The person arrested required medical examination or medical care or was otherwise unable to care for his or her own safety.
- (3) The person was arrested under one or more of the circumstances listed in Sections 40302 and 40303 of the Vehicle Code.
- (4) There were one or more outstanding arrest warrants for the person.
- (5) The person could not provide satisfactory evidence of personal identification.
- (6) The prosecution of the offense or offenses for which the person was arrested, or the prosecution of any other offense or offenses, would be jeopardized by immediate release of the person arrested.
- (7) There was a reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be imminently endangered by release of the person arrested.
- (8) The person arrested demanded to be taken before a magistrate or refused to sign the notice to appear.
- (9) There is reason to believe that the person would not appear at the time and place specified in the notice. The basis for this determination shall be specifically stated.

The form shall be filed with the arresting agency as soon as practicable and shall be made available to any party having custody of the arrested person, subsequent to the arresting officer, and to any person authorized by law to release him or her from custody before trial.

(j) Once the arresting officer has prepared the written notice to appear and has



delivered a copy to the person arrested, the officer shall deliver the remaining original and all copies as provided by subdivision (e).

Any person, including the arresting officer and any member of the officer's department or agency, or any peace officer, who alters, conceals, modifies, nullifies, or destroys, or causes to be altered, concealed, modified, nullified, or destroyed, the face side of the remaining original or any copy of a citation that was retained by the officer, for any reason, before it is filed with the magistrate or with a person authorized by the magistrate to receive deposit of bail, is guilty of a misdemeanor.

If, **after an arrested person has signed and received a copy of a notice to appear, the arresting officer determines that, in the interest of justice, the citation or notice should be dismissed, the arresting agency may recommend, in writing, to the magistrate that the charges be dismissed. The recommendation shall cite the reasons for the recommendation and shall be filed with the court.**

If the magistrate makes a finding that there are grounds for dismissal, the finding shall be entered in the record and the charges dismissed.

Under no circumstances shall a personal relationship with any officer, public official, or law enforcement agency be grounds for dismissal.

(k) For purposes of this section, the term "arresting agency" includes any other agency designated by the arresting agency to provide booking or fingerprinting services.

**Cal. Penal Code §959.** The accusatory pleading is sufficient if it can be understood therefrom:

3. If a complaint, that it is made and subscribed by some natural person and sworn to before some officer entitled to administer oaths.

**Cal. Penal Code §987.8.** (e) At a hearing, the defendant shall be entitled to, but shall not be limited to, all of the following rights:

- (1) The right to be heard in person.
- (2) The right to present witnesses and other documentary evidence.
- (3) The right to confront and cross-examine adverse witnesses.
- (4) The right to have the evidence against him or her disclosed to him or her.
- (5) The right to a written statement of the findings of the court.

**Cal. Penal Code §1385.** (a) The judge or magistrate may, either of his or her own motion or upon the application of the prosecuting attorney, and in furtherance of justice, order an action to be dismissed. The reasons for the dismissal must be set forth in an order entered upon the minutes. No dismissal shall be made for any cause which would be ground of demurrer to the accusatory pleading.

(b) This section does not authorize a judge to strike any prior conviction of a serious felony for purposes of enhancement of a sentence under Section 667.

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CALIFORNIA PROBATE CODE

Cal. Probate Code §13050(b). for purposes of this part, all of the following property shall be excluded in determining the property or estate of the decedent or its value:

- (1) Any vehicle registered under division 3 (commencing with Section 4000) of the Vehicle Code or titled under Division 16.5 (commencing with Section 38000) of the Vehicle Code.

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## CALIFORNIA PUBLIC UTILITIES CODE

**Cal. Pub. Util. Code §4.** No action or proceeding commenced before this code takes effect, and no right accrued, is affected by this code,

**Cal. Pub. Util. Code §208.** "Transportation of persons" includes every service in connection with or incidental to the safety, comfort, or convenience of the person transported and the receipt, carriage, and delivery of such person and his baggage.

**Cal. Pub. Util. Code §209.** "Transportation of property" includes every service in connection with or incidental to the transportation of property, including in particular its receipt, delivery, elevation, transfer, switching, carriage, ventilation, refrigeration, icing, dunnage, storage, and handling, and the transmission of credit by express corporations.

**Cal. Pub. Util. Code §214.5.** With respect to a motor vehicle used in the transportation of passengers for compensation by a passenger stage corporation, "owner" means the corporation or person who is registered with the Department of Motor Vehicles as the owner of the vehicle, or who has a legal right to possession of the vehicle pursuant to a lease or rental agreement.

**Cal. Pub. Util. Code §3950.** It is a violation of law for any person or corporation to operate, or cause to be operated, on the highways of this state, any motor vehicle in the transportation of property or passengers for compensation in interstate commerce without having first complied with the requirements of this chapter. That violation may be prosecuted and punished as provided in Section 16560 of the Vehicle Code.

**Cal. Pub. Util. Code §5102.** The use of the public highways for the transportation of used

household goods and personal effects for compensation is a business affected with a public interest. It is the purpose of this chapter to preserve for the public the full benefit and use of public highways consistent with the needs of commerce without unnecessary congestion or wear and tear upon such highways; to secure to the people just, reasonable and nondiscriminatory rates for transportation by carriers operating upon the highways; and to secure full and unrestricted flow of traffic by motor carriers over the highways which will adequately meet reasonable public demands by providing for the regulation of rates of all carriers so that adequate and dependable service by all necessary carriers shall be maintained and the full use of the highways preserved to the public.

**Cal. Pub. Util. Code §5108.** "Motor vehicle" means every motor truck, tractor, or other self-propelled vehicle used for transportation of property over the public highways, otherwise than upon fixed rails or tracks, and any trailer, semitrailer, dolly, or other vehicle drawn thereby.

**Cal. Pub. Util. Code §5110.5.** With respect to a motor vehicle used in the transportation of property for compensation by a household goods carrier, "owner" means the corporation or person who is registered with the Department of Motor Vehicles as the owner of the vehicle, or who has a legal right to possession of the vehicle pursuant to a lease or rental agreement.

**Cal. Pub. Util. Code §5352.** The use of the public highways for the transportation of passengers for compensation is a business affected with a public interest. It is the purpose of this chapter to preserve for the public full benefit and use of public highways consistent with the needs of commerce without unnecessary congestion or wear and tear upon the highways; to secure to the people adequate and dependable transportation by carriers operating upon the highways; to secure full and unrestricted flow of traffic by motor carriers over the highways which will adequately meet reasonable public demands by providing for the regulation of all transportation agencies with respect to accident indemnity so that adequate and dependable service by all necessary transportation agencies shall be maintained and the full use of the highways preserved to the public; and to promote carrier and public safety through its safety enforcement regulations.

**Cal. Pub. Util. Code §24505.** "Transit" means the transportation of passengers and their incidental baggage by any means.

**Cal. Pub. Util. Code §99209.5.** "Operates" for purposes of Sections 99209 and 99215, and "operation" for purposes of paragraph (1) of subdivision (b) of Section 99289, mean that the operator owns or leases the equipment, establishes routes and frequency of service, regulates and collects fares, and otherwise controls the efficiency and quality of the operation of the system, but does not require that operators of rolling stock be employees of a public agency.

**Cal. Pub. Util. Code §99210.** "Operator" means any transit district, included transit district,

municipal operator, included municipal operator, or transit development board.

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CALIFORNIA REVENUE AND TAXATION CODE

Cal. Rev. & Tax. Code §10701. This part is known and may be cited as the "Vehicle License Fee Law."

Cal. Rev. & Tax. Code §10702. "Vehicle" means every vehicle subject to registration under the Vehicle Code.

Cal. Rev. & Tax. Code §10751. A license fee is hereby imposed for the privilege of operating upon the public highways in this state any vehicle of a type which is subject to registration under the Vehicle Code, or any trailer coach which is required to be moved under permit as authorized in Section 35790 of the Vehicle Code and which is not subject to local property taxation pursuant to Part 13 (commencing with Section 5800) of Division 1. Vehicles of banks, including national banking associations, shall be subject to all provisions of the Vehicle Code to the same extent and same manner as other vehicles, and shall be subject to this part.

Cal. Rev. & Tax. Code §11154. The local vehicle license fee surcharge shall be imposed for the privilege of operating upon the public highways in the county any vehicle of a type that is subject to registration under the Vehicle Code, except those vehicles expressly exempted from payment of vehicle registration fees and commercial vehicles weighing more than 4,000 pounds, unladen, and shall include provisions in substance as follows:

Cal. Rev. & Tax. Code §11156. A person shall, for the purposes provided for in Section 11154, be presumed to be operating a vehicle on the public highways only in the county in which he or she resides, or, in the case of other than a natural person, only in the county in which the vehicle is principally garaged, and he or she shall be subject to a local vehicle license fee surcharge only in that county.

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## CALIFORNIA STREETS AND HIGHWAYS CODE

**Cal. Streets & Hghwy. Code §233.** All title acquired by the public or by any governmental agency to any real property, or interests therein, used for rights of way of any highway heretofore or hereafter constituted a State highway is vested in the name of the people of the State of California.

**Cal. Streets & Hghwy. Code §890.2.** As used in this chapter, "bicycle" means a device upon

which any person may ride, propelled exclusively by human power through a belt, chain, or gears, and having either two or three wheels in a tandem or tricycle arrangement.

**Cal. Streets & Hwy. Code §31502.** As used in this part, "parking places" includes parking lots, garages, buildings, and other improvements for the parking of motor vehicles.

**Cal. Streets & Hwy. Code §32514.** "Parking facilities" includes public transportation terminal facilities and other facilities related thereto.

**Cal. Streets & Hwy. Code §35106.** "Parking places" includes parking lots, garages subsurface structures, and buildings for the parking of motor vehicles.

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CALIFORNIA VEHICLE CODE

SHORT TITLE

Continuation of Existing Law

Cal. Veh. Code §2. The provisions of this code, insofar as they are substantially the same as existing provisions relating to the same subject matter, shall be construed as restatements and continuations thereof and not new enactments.

Pending Proceeding and Accrued Rights

Cal. Veh. Code §4. No action or proceeding commenced before this code takes effect, and no right accrued, is affected by the provisions of this code,

Cal. Veh. Code §260. (a) A "commercial vehicle" is a vehicle of a type required to be registered under this code used or maintained for the transportation of persons for hire, compensation, or profit or designed, used, or maintained primarily for the transportation of property.

(b) Passenger vehicles which are not used for the transportation of persons for hire, compensation, or profit and housecars are not commercial vehicles. This subdivision shall not apply to Chapter 4 (commencing with Section 6700) of Division 3.

(c) Any vanpool vehicle is not a commercial vehicle.

(d) The definition of a commercial vehicle in this section does not apply to Chapter 7 (commencing with Section 15200) of Division 6.

Cal. Veh. Code §305. A "driver" is a person who drives or is in actual physical control of a vehicle. The term "driver" does not include the tillerman or other person who, in an auxiliary capacity, assists the driver in the steering or operation of any articulated firefighting apparatus.

Cal. Veh. Code §310. A "driver's license" is a valid license to drive the type of motor vehicle or combination of vehicles for which a person is licensed under this code or by a foreign jurisdiction.

Cal. Veh. Code §415. (a) A "motor vehicle" is a vehicle that is self-propelled.

(b) "Motor vehicle" does not include a self-propelled wheelchair, invalid tricycle, or motorized quadricycle when operated by a person who, by reason of physical disability, is otherwise unable to move about as a pedestrian.

Cal. Veh. Code §435. "Nonresident" is a person who is not a resident of this State.

Cal. Veh. Code §463. "Park or parking" shall mean the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers. (Added by Stats. 1961, Ch. 1608.)

Cal. Veh. Code §465. A "passenger vehicle" is any motor vehicle, other than a motortruck, truck tractor, or a bus, as defined in Section 233, and used or maintained for the transportation of persons. The term "passenger vehicle" shall include a housecar.

Cal. Veh. Code §516. "Resident" means any person who manifests an intent to live or be located in this state on more than a temporary or transient basis. Presence in the state for six months or more in any 12-month period gives rise to a rebuttable presumption of residency.

The following are evidence of residency for purposes of vehicle registration:

- (a) Address where registered to vote.
- (b) Location of employment or place of business.
- (c) Payment of resident tuition at a public institution of higher education.
- (d) Attendance of dependents at a primary or secondary school.
- (e) Filing a homeowner's property tax exemption.
- (f) Renting or leasing a home for use as a residence.
- (g) Declaration of residency to obtain a license or any other privilege or benefit not ordinarily extended to a nonresident.
- (h) Possession of a California driver's license.
- (i) Other acts, occurrences, or events that indicate presence in the state is more than temporary or transient.

Cal. Veh. Code §670. A "vehicle" is a device by which any person or property may be propelled, moved, or drawn upon a highway, excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks.

Cal. Veh. Code §4000. (a) (1) No person shall drive, move, or leave standing upon a highway, or in an offstreet public parking facility, any motor vehicle, trailer, semitrailer, pole or pipe

dolly, or logging dolly, unless it is registered and the appropriate fees have been paid under this code or registered under the permanent trailer identification program, except that an off-highway motor vehicle which displays an identification plate or device issued by the department pursuant to Section 38010 may be driven, moved, or left standing in an offstreet public parking facility without being registered or paying registration fees.

Cal. Veh. Code §5200. (a) When two license plates are issued by the department for use upon a vehicle, they shall be attached to the vehicle for which they were issued, one in the front and the other in the rear.

(b) When only one license plate is issued for use upon a vehicle, it shall be attached to the rear thereof, unless the license plate is issued for use upon a truck tractor, in which case the license plate shall be displayed in accordance with Section 4850.5.

Cal. Veh. Code §5201. License plates shall at all times be securely fastened to the vehicle for which they are issued so as to prevent the plates from swinging, shall be mounted in a position so as to be clearly visible, and shall be maintained in a condition so as to be clearly legible. The rear license plate shall be mounted not less than 12 inches nor more than 60 inches from the ground, and the front license plate shall be mounted not more than 60 inches from the ground,...

Cal. Veh. Code §12500. (a) A person may not drive a motor vehicle upon a highway, unless the person then holds a valid driver's license issued under this code, except those persons who are expressly exempted under this code...

Cal. Veh. Code §14601. (a) No person shall drive a motor vehicle at any time when that person's driving privilege is suspended or revoked for reckless driving in violation of Section 23103, 23104, or 23105, any reason listed in subdivision (a) or (c) of Section 12806 authorizing the department to refuse to issue a license, negligent or incompetent operation of a motor vehicle as prescribed in subdivision (e) of Section 12809, or negligent operation as prescribed in Section 12810.5, if the person so driving has knowledge of the suspension or revocation. Knowledge shall be conclusively presumed if mailed notice has been given by the department to the person pursuant to Section 13106. The presumption established by this subdivision is a presumption affecting the burden of proof.

(b) A person convicted under this section shall be punished as follows:

(1) Upon a first conviction, by imprisonment in a county jail for not less than five days or more than six months and by a fine of not less than three hundred dollars (\$300) or more than one thousand dollars (\$1,000).

(2) If the offense occurred within five years of a prior offense that resulted in a conviction of a violation of this section or Section 14601.1, 14601.2, or 14601.5, by imprisonment in a

county jail for not less than 10 days or more than one year and by a fine of not less than five hundred dollars (\$500) or more than two thousand dollars (\$2,000).

(c) If the offense occurred within five years of a prior offense that resulted in a conviction of a violation of this section or Section 14601.1, 14601.2, or 14601.5, and is granted probation, the court shall impose as a condition of probation that the person be confined in a county jail for at least 10 days.

(d) Nothing in this section prohibits a person from driving a motor vehicle, that is owned or utilized by the person's employer, during the course of employment on private property that is owned or utilized by the employer, except an offstreet parking facility as defined in subdivision (c) of Section 12500.

(e) When the prosecution agrees to a plea of guilty or nolo contendere to a charge of a violation of this section in satisfaction of, or as a substitute for, an original charge of a violation of Section 14601.2, and the court accepts that plea, except, in the interest of justice, when the court finds it would be inappropriate, the court shall, pursuant to Section 23575, require the person convicted, in addition to any other requirements, to install a certified ignition interlock device on any vehicle that the person owns or operates for a period not to exceed three years.

(f) This section also applies to the operation of an off-highway motor vehicle on those lands to which the Chappie-Z'berg Off-Highway Motor Vehicle Law of 1971 (Division 16.5 (commencing with Section 38000)) applies as to off-highway motor vehicles, as described in Section 38001.

Cal. Veh. Code §22348. (a) Notwithstanding subdivision (b) of Section 22351, a person shall not drive a vehicle upon a highway with a speed limit established pursuant to Section 22349 or 22356 at a speed greater than that speed limit.

(b) A person who drives a vehicle upon a highway at a speed greater than 100 miles per hour is guilty of an infraction punishable, as follows:

(1) Upon a first conviction of a violation of this subdivision, by a fine of not to exceed five hundred dollars (\$500). The court may also suspend the privilege of the person to operate a motor vehicle for a period not to exceed 30 days pursuant to Section 13200.5.

(2) Upon a conviction under this subdivision of an offense that occurred within three years of a prior offense resulting in a conviction of an offense under this subdivision, by a fine of not to exceed seven hundred fifty dollars (\$750). The person's privilege to operate a motor vehicle shall be suspended by the Department of Motor Vehicles pursuant to subdivision (a) of Section 13355.

(3) Upon a conviction under this subdivision of an offense that occurred within five years of two or more prior offenses resulting

in convictions of offenses under this subdivision, by a fine of not to exceed one thousand dollars (\$1,000). The person's privilege to operate a motor vehicle shall be suspended by the Department of Motor Vehicles pursuant to subdivision (b) of Section 13355.

(c) A vehicle subject to Section 22406 shall be driven in a lane designated pursuant to Section 21655, or if a lane has not been so designated, in the right-hand lane for traffic or as close as practicable to the right-hand edge or curb. When overtaking and passing another vehicle proceeding in the same direction, the driver shall use either the designated lane, the lane to the immediate left of the right-hand lane, or the right-hand lane for traffic as permitted under this code. If, however, specific lane or lanes have not been designated on a divided highway having four or more clearly marked lanes for traffic in one direction, a vehicle may also be driven in the lane to the immediate left of the right-hand lane, unless otherwise prohibited under this code. This subdivision does not apply to a driver who is preparing for a left- or right-hand turn or who is in the process of entering into or exiting from a highway or to a driver who is required necessarily to drive in a lane other than the right-hand lane to continue on his or her intended route.

Cal. Veh. Code §22350. No person shall drive a vehicle upon a highway at a speed greater than is reasonable or prudent having due regard for weather, visibility, the traffic on, and the surface and width of, the highway, and in no event at a speed which endangers the safety of persons or property.

DIVISION 17. OFFENSES AND PROSECUTION

CHAPTER 2. PROCEDURE ON ARRESTS

Article 1. Arrests 40300 - 40313

Cal. Veh. Code §40300. The provisions of this chapter shall govern all peace officers in making arrests for violations of this code without a warrant for offenses committed in their presence,

Cal. Veh. Code §40300.5. In addition to the authority to make an arrest without a warrant pursuant to paragraph (1) of subdivision (a) of Section 836 of the Penal Code, a peace officer may, without a warrant, arrest a person when the officer has reasonable cause to believe that the person had been driving while under the influence of an alcoholic beverage or any drug, or under the combined influence of an alcoholic beverage and any drug when any of the following exists:

- (a) The person is involved in a traffic accident.
- (b) The person is observed in or about a vehicle that is obstructing a roadway.
- (c) The person will not be apprehended unless immediately arrested.
- (d) The person may cause injury to himself or herself or damage property unless immediately arrested.

(e) The person may destroy or conceal evidence of the crime unless immediately arrested.

Cal. Veh. Code §40302. Whenever any person is arrested for any violation of this code, not declared to be a felony, the arrested person shall be taken without unnecessary delay before a magistrate within the county in which the offense charged is alleged to have been committed and who has jurisdiction of the offense and is nearest or most accessible with reference to the place where the arrest is made in any of the following cases:

- (a) When the person arrested fails to present his driver's license or other satisfactory evidence of his identity for examination.
- (b) When the person arrested refuses to give his written promise to appear in court.
- (c) When the person arrested demands an immediate appearance before a magistrate.
- (d) When the person arrested is charged with violating Section 23152.

Cal. Veh. Code §40303.5. Whenever any person is arrested for any of the following offenses, the arresting officer shall permit the arrested person to execute a notice containing a promise to correct the violation in accordance with the provisions of Section 40610 unless the arresting officer finds that any of the disqualifying conditions specified in subdivision (b) of Section 40610 exist:

- (a) Any registration infraction set forth in Division 3 (commencing with Section 4000).
- (b) Any driver's license infraction set forth in Division 6 (commencing with Section 12500), and subdivision (a) of Section 12951, relating to possession of driver's license.
- (c) Section 21201, relating to bicycle equipment.
- (d) Any infraction involving equipment set forth in Division 12 (commencing with Section 24000), Division 13 (commencing with Section 29000), Division 14.8 (commencing with Section 34500), Division 16 (commencing with Section 36000), Division 16.5 (commencing with Section 38000), and Division 16.7 (commencing with Section 39000).
- (e) Section 2482, relating to registration decals for vehicles transporting inedible kitchen grease.

Cal. Veh. Code §40306. (a) Whenever a person is arrested for a misdemeanor or an infraction and is taken before a magistrate, the arresting officer shall file with the magistrate a complaint stating the offense with which the person is charged.

(b) The person taken before a magistrate shall be entitled to at least five days continuance of his case in which to plead and prepare for trial and the person shall not be required to plead or be tried within the five days unless he waives such time in writing or in open court.

(c) The person taken before a magistrate shall thereupon be released from custody upon his own recognizance or upon such bail as the magistrate may fix.

Cal. Veh. Code §40500. (a) Whenever a person is arrested for any violation of this code not declared to be a felony, or for a violation of an ordinance of a city or county relating to traffic offenses and he is not immediately taken before a magistrate, as provided in this chapter, the arresting officer shall prepare in triplicate a written notice to appear in court or before a person authorized to receive a deposit of bail, containing the name and address of the person, the license number of his or her vehicle, if any, the name and address, when available, of the registered owner or lessee of the vehicle, the offense charged and the time and place when and where he shall appear. If the arrestee does not have a driver's license or other satisfactory evidence of identity in his or her possession, the officer may require the arrestee...

Cal. Veh. Code §40504. (a) The officer shall deliver one copy of the notice to appear to the arrested person and the arrested person in order to secure release must give his or her written promise to appear in court... Thereupon, the arresting officer shall forthwith release the person arrested from custody.

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## CALIFORNIA WELFARE AND INSTITUTIONS CODE

**Cal. Welfare & Inst. Code §4.** No action or proceeding commenced before this code takes effect, and no right accrued,

**Cal. Welfare & Inst. Code §15.** "Shall" is mandatory and "may" is permissive.

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