

HAND OUTS

**CITY COUNCIL
MEETING**

MARCH 19, 2024



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Assembly Bill No. 641

CHAPTER 537

An act to amend Sections 220, 221, and 11500 of the Vehicle Code, relating to vehicles.

[Approved by Governor October 8, 2023. Filed with Secretary
of State October 8, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 641, Vince Fong. Automobile dismantlers: catalytic converters.

Existing law defines an "automobile dismantler" as a person who is engaged in the business of buying, selling, or dealing in vehicles that are required to be registered under the Vehicle Code, for the purpose of dismantling the vehicles, who buys or sells the integral parts and component materials of those vehicles, or deals in used motor vehicle parts, as specified. The definition of "automobile dismantler" also includes a person who keeps or maintains on property owned by the person, or under their possession or control, 2 or more unregistered motor vehicles no longer intended for, or in condition for, legal use on the highways, as specified. Existing law makes it a crime for a person to act as an automobile dismantler without having an established place of business, meeting specified requirements, and having a current, valid license or temporary permit issued by the Department of Motor Vehicles.

This bill would revise the definition of an automobile dismantler to include a person who keeps or maintains on property owned by the person, or under their possession or control, for any of the above-described purposes 9 or more used catalytic converters that have been cut from a motor vehicle using a sharp implement. The bill would make a first violation of acting as an automobile dismantler due to possessing 9 or more catalytic converters as described above punishable as an infraction, and subsequent violations punishable as a misdemeanor, as specified. By expanding the definition of an automobile dismantler, the bill would expand the scope of an existing crime, thereby imposing a state-mandated local program. The bill would exclude from the revised definition of an automobile dismantler a junk dealer, recycler, commercial enterprise, or core recycler, as specified, that has 9 or more of these used catalytic converters.

Existing law excludes from the definition of an "automobile dismantler" the owner or operator of any premises on which 2 or more unregistered and inoperable vehicles are held or stored, if the vehicles are used for restoration or replacement parts or otherwise, in conjunction with specified businesses, including the operation and maintenance of any fleet of motor vehicles used for the transportation of persons or property.

This bill would also exclude from the definition of an “automobile dismantler” a person who possesses 9 or more catalytic converters that are used in the same manner as the unregistered and inoperable vehicles.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

SECTION 1. Section 220 of the Vehicle Code is amended to read:

220. (a) An “automobile dismantler” is a person not otherwise expressly excluded by Section 221 who is engaged in the business of buying, selling, or dealing in vehicles of a type required to be registered under this code, including nonrepairable vehicles, for the purpose of dismantling the vehicles, who buys or sells the integral parts and component materials thereof, in whole or in part, or deals in used motor vehicle parts. This section does not apply to the occasional and incidental dismantling of vehicles by dealers who have secured dealer plates from the department for the current year whose principal business is buying and selling new and used vehicles, or by owners who desire to dismantle not more than three personal vehicles within any 12-month period.

(b) Notwithstanding subdivision (a), “automobile dismantler” includes a person not otherwise expressly excluded by Section 221 who keeps or maintains on real property owned by the person, or under their possession or control, either of the following vehicles or catalytic converters, whether for the purpose of resale of used parts, for the purpose of reclaiming for use some or all of the materials, whether metal, glass, fabric, or otherwise, or to dispose of them, or for any other purpose:

(1) Two or more unregistered motor vehicles no longer intended for, or in condition for, legal use on the highways.

(2) Nine or more used catalytic converters that have been cut from a motor vehicle using a sharp implement.

(c) (1) Notwithstanding paragraph (2) of subdivision (b), a “junk dealer,” as defined in Section 21601 of the Business and Professions Code, a “recycler,” as defined in Section 21605 of the Business and Professions Code, or a “commercial enterprise” or “core recycler,” as defined in Section 21610 of the Business and Professions Code, is not an automobile dismantler even if it possesses nine or more used catalytic converters that have been cut from a motor vehicle using a sharp implement.

(2) This subdivision does not apply to a “commercial enterprise” described in subparagraph (A) of paragraph (2) of subdivision (a) of Section 21610 of the Business and Professions Code.

SEC. 2. Section 221 of the Vehicle Code is amended to read:

221. (a) The term “automobile dismantler” does not include any of the following:

(1) The owner or operator of any premises on which two or more unregistered and inoperable vehicles are held or stored, or a person who possesses nine or more catalytic converters, if the vehicles or catalytic converters are used for restoration or replacement parts or otherwise, in conjunction with any of the following:

(A) Any business of a licensed dealer, manufacturer, or transporter.

(B) The operation and maintenance of any fleet of motor vehicles used for the transportation of persons or property.

(C) Any agricultural, farming, mining, or ranching business that does not sell parts of the vehicles, except for either of the following purposes:

(i) For use in repairs performed by that business.

(ii) For use by a licensed dismantler or an entity described in paragraph (3).

(D) Any motor vehicle repair business registered with the Bureau of Automotive Repair, or those exempt from registration under the Business and Professions Code or applicable regulations, that does not sell parts of the vehicles, except for either of the following purposes:

(i) For use in repairs performed by that business.

(ii) For use by a licensed dismantler or an entity described in paragraph (3).

(2) A person engaged in the restoration of vehicles of the type described in Section 5004 or in the restoration of other vehicles having historic or classic significance.

(3) The owner of a steel mill, scrap metal processing facility, or similar establishment purchasing vehicles of a type subject to registration, not for the purpose of selling the vehicles, in whole or in part, but exclusively for the purpose of reducing the vehicles to their component materials, if either the facility obtains, on a form approved or provided by the department, a certification by the person from whom the vehicles are obtained that each of the vehicles has been cleared for dismantling pursuant to Section 5500 or 11520, or the facility complies with Section 9564.

(4) Any person who acquires used parts or components for resale from vehicles which have been previously cleared for dismantling pursuant to Section 5500 or 11520.

Nothing in this paragraph permits a dismantler to acquire or sell used parts or components during the time the dismantler license is under suspension.

(b) Any vehicle acquired for the purpose specified in paragraph (3) of subdivision (a) from other than a licensed dismantler, or from other than an independent hauler who obtained the vehicle, or parts thereof from a licensed dismantler, shall be accompanied by either a receipt issued by the department evidencing proof of clearance for dismantling under Section 5500, or a copy of the ordinance or order issued by a local authority for the abatement of the vehicle pursuant to Section 22660. The steel mill, scrap metal processing facility, or similar establishment acquiring the vehicle shall attach the form

evidencing clearance or abatement to the certification required pursuant to this section.

All forms specified in paragraph (3) of subdivision (a) and in this subdivision shall be available for inspection by a peace officer during business hours.

SEC. 3. Section 11500 of the Vehicle Code is amended to read:

11500. (a) (1) It shall be unlawful for any person to act as an automobile dismantler without first having an established place of business that meets the requirements set forth in Section 11514 and without first having procured a license or temporary permit issued by the department, or when such license or temporary permit has been canceled, suspended, revoked, invalidated, expired, or the terms and conditions of an agreement effected pursuant to Section 11509.1 have not been fulfilled. A violation of this subdivision is a misdemeanor, and is subject to the penalties described in paragraph (2).

(2) Notwithstanding Section 42002, a person convicted of a first violation of subdivision (a) for any reason other than described in paragraph (3) shall be punished by a fine of not less than two hundred fifty dollars (\$250). A person convicted of a second separate violation of subdivision (a) for this reason shall be punished by a fine of not less than five hundred dollars (\$500). A person convicted of a third or subsequent violation of subdivision (a) for this reason shall be punished by a fine of not less than one thousand dollars (\$1,000).

(3) A person who violates subdivision (a) due to possessing nine or more catalytic converters that have been cut from a vehicle pursuant to Section 220 is, for a first violation, guilty of an infraction punishable by a fine of not more than one hundred dollars (\$100). A person convicted of a second separate violation of subdivision (a) for this reason is guilty of a misdemeanor punishable by a fine of not less than two hundred fifty dollars (\$250). A person convicted of a third separate violation of subdivision (a) for this reason is guilty of a misdemeanor punishable by a fine of not less than five hundred dollars (\$500). A person convicted of a fourth or subsequent violation of subdivision (a) for this reason shall be punished by a fine of not less than one thousand dollars (\$1,000).

(b) (1) A building or place used for the purpose of automobile dismantling in violation of subdivision (a) is a public nuisance subject to being enjoined, abated, and prevented, and for which damages may be recovered by any public body or officer.

(2) As used in this section, "public body" means any state agency, county, city, district, or any other political subdivision of the state.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime

within the meaning of Section 6 of Article XIII B of the California Constitution.

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1 ORDINANCE NO. 987

2 AN ORDINANCE OF THE COUNTY OF RIVERSIDE RELATING TO
3 THE UNLAWFUL POSSESSION OF A CATALYTIC CONVERTER
4

5 The Board of Supervisors of the County of Riverside ordains as follows:

6 Section 1. FINDINGS. The Board of Supervisors of Riverside County finds that the theft of
7 catalytic converters has been an increasing problem in Riverside County in recent years. In the County,
8 there were at least 200 reports of catalytic converter thefts in 2022 and, as of July 1, 2023, there were at
9 least 316 reports by victims. The external location of catalytic converters and the use of valuable precious
10 metals, including rhodium, palladium and platinum, in catalytic converters makes these devices a target for
11 thieves. Individuals in possession of stolen catalytic converters often recycle them for substantial profit,
12 while victims of these thefts suffer the consequences of paying thousands of dollars in repairs, the
13 inconvenience of repairing their vehicles, and feeling unsafe in the community. Finding the victim of these
14 crimes is extremely difficult due to the manner in which the catalytic converter thefts occur and lack of
15 identifying markers on catalytic converters to link a stolen catalytic converter to the victim. The inability
16 to identify the victims of catalytic converter thefts can inhibit the ability to successfully prosecute
17 individuals for the thefts. This ordinance is necessary to provide the County a means to protect the public,
18 deter this criminal activity and promote a more productive use of Riverside County resources.

19 Section 2. PURPOSE. Catalytic converter theft is an increasing problem within Riverside
20 County and causes significant financial damage to the victims. The purpose and intent of this ordinance is
21 to curb the theft of catalytic converters throughout the County and to provide the County with reasonable
22 means to address the impact on the community and the victims posed by increasing catalytic converter
23 thefts.

24 Section 3. AUTHORITY. In accordance with the California Constitution, Article XI, Section
25 7, a county may make and enforce within its limits all local, police, sanitary and other ordinances and
26 regulations not in conflict with general laws.

27 Section 4. DEFINITIONS. As used in this ordinance, the following terms shall have the
28 following meanings:

1 Section 4. DEFINITIONS. As used in this ordinance, the following terms shall have the
2 following meanings:

3 A. Board. The County of Riverside Board of Supervisors.

4 B. County. The County of Riverside.

5 C. Catalytic converter. Any exhaust emission control device, or portion thereof,
6 that converts toxic gases and pollutants in exhaust gas from an internal combustion
7 engine into less-toxic pollutants.

8 D. Documentation or other proof. Written document(s) clearly identifying the vehicle
9 from which the catalytic converter originated based on the totality of the
10 circumstances, which includes, but is not limited to, the following types of
11 documents:

12 1. Bill of sale from the original owner with photographs.

13 2. Verifiable documentation from an auto-body shop proving the owner
14 relinquished the catalytic converter to the auto-body shop.

15 3. Verifiable electronic communication from the previous owner to the
16 possessor relinquishing ownership of the catalytic converter.

17 4. Photographs of the vehicle from which the catalytic converter originated.

18 5. Vehicle registration associated with the catalytic converter containing an
19 etched associated license plate number or vehicle identification number or
20 driver's license number of registered vehicle owner.

21 E. Lawful Possession. This term includes: (1) being the lawful owner of the catalytic
22 converter or (2) being in possession of the catalytic converter with the lawful owner's
23 verifiable written consent. It is not required to prove the catalytic converter was
24 stolen to establish the possession is an Unlawful Possession.

25 F. Enforcement Officer. The Sheriff, the Transportation and Land Management
26 Agency Director, Building Official, Code Enforcement Official, County Counsel, or
27 District Attorney, and their designees.

1 Section 5. UNLAWFUL POSSESSION OF A CATALYTIC CONVERTER. Barring any
2 provision of state law permitting the same, it is unlawful for any person to possess any catalytic converter
3 which is not attached to a vehicle unless the person has a verifiable valid proof of ownership of the catalytic
4 converter.

5 A. This section does not apply to a detached catalytic converter that has been verifiably
6 tested, certified, and labeled or otherwise approved for reuse, and is being bought or
7 sold for purposes of reuse in accordance with the federal Clean Air Act (42 U.S.C.
8 § 7401 et seq.) and regulations under the Clean Air Act, as they may be amended
9 from time to time.

10 B. It is unlawful for any person to knowingly falsify or cause to be falsified any
11 information in a record intended to show valid proof of ownership.

12 C. Evidence of unlawful possession may be presumed by the number of detached
13 catalytic converters within one's possession and/or by the condition of the
14 dismantled catalytic converter(s), including but not limited to, the manner a catalytic
15 converter has been detached or cut from a vehicle.

16 Section 6. VIOLATIONS AND ENFORCEMENT.

17 A. Misdemeanor Penalty. Any person who violates any provision of this ordinance is
18 guilty of a misdemeanor, and upon conviction shall be punished by a fine not
19 exceeding one thousand dollars (\$1,000), or by imprisonment in the county jail for a
20 term not exceeding one year, or by both. Upon any second or subsequent conviction
21 of the offense, the person shall be punished by the penalties of a fine of one thousand
22 dollars (\$1,000) and by imprisonment in the County jail for one year.

23 B. State Penalties Apply. Nothing in this ordinance shall be intended to limit any of the
24 penalties provided for under California law, including but not limited to the Penal
25 Code, with regard to the sale, use, possession, delivery, and/or receipt of catalytic
26 converters.

1 C. Administrative Civil Penalty. In addition to any other penalties provided by law,
2 whenever an Enforcement Officer determines a violation of this ordinance has
3 occurred, the Enforcement Officer shall have the authority to issue an administrative
4 citation with an administrative civil penalty to any person responsible for the
5 violation. Any administrative civil penalty shall be one thousand dollars (\$1,000)
6 for the first offense, two thousand dollars (\$2,000) for the second offense within
7 thirty-six (36) months, and five thousand dollars (\$5,000) for each subsequent
8 offense within thirty-six (36) months. The administrative citation shall contain the
9 following information: (1) date, location and approximate time the violation was
10 observed; (2) the amount of the administrative civil penalty imposed for the
11 violation; (3) instructions for the payment of the administrative civil penalty, the time
12 period by which it shall be paid, and the consequences of failure to pay the
13 administrative civil penalty within this time; (4) instructions on how to appeal the
14 administrative citation; and (5) the signature of the Enforcement Officer. The failure
15 of the administrative citation to set forth all required contents shall not affect the
16 validity of the administrative citation or any proceedings to enforce said citation.
17 The administrative civil penalty may be imposed via the administrative process set
18 forth in this ordinance or may be imposed by the court if the violation requires court
19 enforcement without an administrative process.

20 D. Separate Offenses. Acts, omissions, or conditions in violation of this ordinance that
21 continue, exist, or occur on more than one day constitute separate violations on each
22 day. Violations continuing, existing, or occurring on the service date, the effective
23 date, and each day between the service date and the effective date are separate
24 violations. A person is guilty of a separate offense for each and every day or portion
25 thereof during which he or she commits, continues, or permits a violation of this
26 ordinance. A person is deemed guilty of a separate offense for each and every
27 violation of this ordinance, or any portion thereof. Likewise, a person shall be
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1 deemed guilty of a separate offense for each and every catalytic converter in the
2 person's possession that is not attached to a vehicle unless the person has a valid
3 proof of ownership of the catalytic converter.

4 Section 7. APPEAL OF ADMINISTRATIVE CIVIL PENALTIES.

5 A. Notice of Appeal. The recipient of an administrative citation may appeal its validity
6 by filing a written notice of appeal with the County department that issued the
7 administrative citation. The written notice of appeal must be filed within twenty (20)
8 calendar days of service of the administrative citation. The notice of appeal shall be
9 accompanied by either an advance deposit of the administrative civil penalty
10 imposed in the administrative citation or a request for advance deposit hardship
11 waiver as set forth below. Failure to properly file a written notice of appeal within
12 this time period shall constitute a waiver of the right to appeal the administrative
13 citation. The notice of appeal shall be submitted on a form provided by the County
14 department that issued the administrative citation and shall contain the following
15 information: (1) a brief statement setting forth the appellant's interest in the
16 proceedings; (2) a brief statement of the material facts which the appellant claims
17 support a contention that no violation exists and that no administrative civil penalty
18 should be imposed or that an administrative civil penalty of a different amount is
19 warranted; (3) an address at which the appellant agrees that notice of any additional
20 proceeding or an order relating to the imposition of the administrative civil penalty
21 may be received by mail; and (4) the notice of appeal must be signed by the appellant
22 under penalty of perjury.

23 B. Advance Deposit Hardship Waiver. Any person filing a notice of appeal to contest
24 an administrative citation and who is financially unable to make the advance deposit
25 of the administrative civil penalty as required may submit a request for advance
26 deposit hardship waiver with the notice of appeal. The request for advance deposit
27 hardship waiver shall be filed with the County department that issued the
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1 administrative citation on a form provided by the same County department. The
2 request shall be documented by a sworn affidavit, together with any supporting
3 documents or materials, demonstrating to the satisfaction of the Enforcement Officer
4 the person's actual financial inability to deposit the full amount of the administrative
5 civil penalty in advance of the hearing. The requirement of depositing the full
6 amount of the administrative civil penalty shall be stayed for ten (10) calendar days
7 pending a determination by the Enforcement Officer of the approval or denial of the
8 request for advance deposit hardship waiver. The Enforcement Officer shall issue a
9 written determination stating the approval or listing the reasons for the denial of the
10 request for advance deposit hardship waiver. The written determination shall be
11 mailed to the appellant at the address provided in the request. If the Enforcement
12 Officer denies a request for advance deposit hardship waiver, the appellant shall
13 remit the deposit to the County within fifteen (15) calendar days of the date of
14 mailing notice of the denial. The written determination of the Enforcement Officer
15 on this matter shall be final.

16 C. Hearing on Appeal of Administrative Citation. Upon receipt of a timely filed notice
17 of appeal of an administrative citation with an administrative civil penalty, an appeal
18 hearing to consider the issuance of the administrative civil penalty shall be held
19 before the County Hearing Officer, appointed by the Board of Supervisors pursuant
20 to Ordinance No. 643 and Government Code section 27720. At the time fixed in the
21 notice of hearing, the County Hearing Officer shall receive evidence from the
22 Enforcement Officer and the appellant regarding the violation of prohibitions
23 contained in Section 5 of this ordinance, as well as any facts the appellant claims
24 support a contention that no violation exists and that no administrative civil penalty
25 should be imposed or that an administrative civil penalty of a different amount is
26 warranted. In conducting the hearing, the County Hearing Officer shall not be
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1 limited by the technical rules of evidence. Failure of the appellant to appear shall
2 not affect the validity of the proceedings or order issued thereon.

3 D. County Hearing Officer's Decision. The County Hearing Officer shall issue a
4 written decision following the appeal hearing, which shall be issued to the appellant
5 at the appellant's address set forth in the notice of appeal. If the administrative
6 citation is determined to have been valid at the time of its issuance, the County
7 Hearing Officer shall affirm the administrative civil penalty amount pursuant to
8 subsection C. of Section 6 of this ordinance, and order said penalty to be paid within
9 fifteen (15) calendar days of issuance of the County Hearing Officer's decision. The
10 County Hearing Officer's decision shall contain instructions for obtaining judicial
11 review of the decision as set forth below.

12 E. Judicial Review of County Hearing Officer's Decision on Administrative Civil
13 Penalty. Within twenty (20) calendar days of the date of issuance of the final
14 decision of the County Hearing Officer, the appellant may contest the County
15 Hearing Officer's decision by filing an appeal in the Riverside County Superior
16 Court pursuant to Government Code section 53069.4. The fee for filing the appeal
17 is specified in Government Code section 70615 (\$25.00 as of the effective date of
18 this ordinance) and shall be paid to the Clerk of the Court. The failure to file the
19 written appeal and to pay the filing fee within this period shall constitute a waiver of
20 the right to an appeal, and the County Hearing Officer's decision shall be deemed
21 final and confirmed. A copy of the notice of appeal of the County Hearing Officer's
22 Decision filed in the Riverside County Superior Court shall be served in person or
23 by first class mail upon the County Department that issued the administrative citation
24 by the appellant. The conduct of the appeal hearing is a subordinate judicial duty
25 and may be performed by traffic trial commissioners and other subordinate judicial
26 officials at the direction of the Presiding Judge of the Riverside County Superior
27 Court. The appeal shall be heard de novo, and the contents of the file of the County
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1 Department that issued the administrative citation shall be received into evidence. A
2 copy of the administrative citation and the Hearing Officer's Decision shall be
3 admitted into evidence as prima facie evidence of the facts stated therein. The Court
4 shall request that the County Department's file be forwarded to the Court, to be
5 received within fifteen (15) calendar days of the request. The Court shall retain the
6 fee for filing the appeal regardless of the outcome of the appeal. If the Court finds
7 in favor of the appellant, the amount of the fee shall be reimbursed to the appellant
8 by the County in accordance with the judgment of the Court. If the penalty has not
9 been deposited and the decision of the Court is against the appellant, the County
10 Department that issued the administrative civil penalty may proceed to collect the
11 penalty using all means available under the law.

12 Section 8. NON-EXCLUSIVE REMEDIES AND PENALTIES. All remedies and penalties for
13 violations of the prohibitions in this ordinance shall be cumulative and not exclusive. Enforcement by use
14 of any administrative, criminal or civil action, citation or administrative proceeding or abatement remedy
15 does not preclude the use of additional citations or other remedies as authorized by other ordinance or law.
16 Enforcement remedies may be employed concurrently or consecutively. Conviction and punishment of or
17 enforcement against any person hereunder shall not relieve such person from the responsibility of
18 correcting, removing or abating a violation, nor prevent the enforced correction, removal or abatement
19 thereof.

20 Section 9. SEVERABILITY. The provisions of this ordinance are separate and severable. If
21 any provision of this ordinance is for any reason held by a court to be unconstitutional or invalid, the Board
22 declares that it would have passed this ordinance irrespective of the invalidity of the provision held to be
23 unconstitutional or invalid. Such unconstitutionality or invalidity shall therefore not affect the remaining
24 provisions of this ordinance, or the validity of its application to other persons or circumstances.

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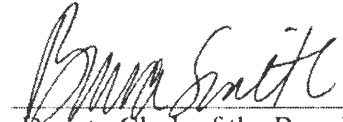
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1 Section 10. EFFECTIVE DATE. This ordinance shall take effect thirty (30) days from the
2 date of adoption.
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4 BOARD OF SUPERVISORS OF THE COUNTY
5 OF RIVERSIDE, STATE OF CALIFORNIA

6 By: 
7 KEVIN JEFFRIES, Chair
8 County of Riverside Board of Supervisors

9 ATTEST:
10 CLERK OF THE BOARD
11 KIMBERLY A. RECTOR

12 By: 
13 Deputy Clerk of the Board

14 (SEAL)

17 *APPROVED AS TO FORM:*

18 MINH C. TRAN
19 County Counsel

20 
21 _____

23 Kelly Moran
24 Chief Deputy County Counsel

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