

**Introduced by ~~Senator Umberg~~ Senators Umberg and  
Smallwood-Cuevas**  
**(Principal coauthors: Senators Cervantes, Cortese, Gonzalez, Hurtado,  
Menjivar, Pérez, Reyes, and Wahab)**  
**(Coauthor: Senator Richardson)**

December 3, 2024

---

An act to *add Section 17206.3 to the Business and Professions Code, to amend ~~Section 417.10 of the Code of Civil Procedure~~, Sections 1770 and 3345 of, and to add Title 1.4E (commencing with Section 1749.9) to Part 4 of Division 3 of, the Civil Code, and to amend Sections 396 and 1524 of the Penal Code, relating to ~~civil procedure~~: price gouging.*

LEGISLATIVE COUNSEL'S DIGEST

SB 36, as amended, Umberg. ~~Civil actions: proof of service. Price gouging: state of emergency.~~

(1) Existing law, the Unfair Competition Law, makes various practices unlawful and provides that a person who engages, has engaged, or proposes to engage in unfair competition is liable for a civil penalty, as specified.

This bill would additionally make a person who violates those provisions, if the act or acts of unfair competition are perpetrated against one or more persons displaced due to a state of emergency or local emergency, as defined, liable for a civil penalty not to exceed \$2,500 for each violation, as specified.

(2) Existing law, the Consumers Legal Remedies Act, makes unlawful certain unfair methods of competition and certain unfair or deceptive acts or practices undertaken by a person in a transaction intended to

result or that results in the sale or lease of goods or services to a consumer. These include, among others, making false or misleading statements of fact concerning reasons for, existence of, or amounts of, price reductions.

This bill would additionally make it unlawful under those provisions to engage in, among other things, price gouging during a state of emergency or local emergency.

(3) Existing law requires the trier of fact, in a civil action to redress unfair or deceptive acts or practices or unfair competition brought by, on behalf of, or for the benefit of senior citizens, disabled persons, or veterans, to consider specified factors in determining the amount of a discretionary fine, penalty, or remedy to be imposed. Existing law authorizes the trier of fact, upon a finding of one of those factors, to impose a fine, penalty, or other remedy in an amount up to 3 times greater than the amount authorized by statute or the amount the trier of fact would impose in the absence of the affirmative finding.

This bill would make those provisions applicable to persons displaced due to a state of emergency or a local emergency, as defined.

(4) Under existing law, upon the proclamation of a state of emergency by the President of the United States or the Governor, or upon the declaration of a local emergency by the executive officer of any county, city, or city and county, and for 30 days or 180 days, as specified, following the proclamation or declaration of emergency, it is a misdemeanor for a person, contractor, business, or other entity to sell or offer to sell certain goods or services for a price of more than 10% greater than the price charged by that person immediately prior to the proclamation or declaration of emergency. Existing law authorizes the extension of these prohibitions by, among others, the Governor, if deemed necessary to protect the lives, property or welfare of the citizens.

This bill would specify that an extension authorized by the Governor may be terminated by a concurrent resolution of the Legislature declaring it at an end and that those provisions apply in all counties in the proclamation or declaration of emergency as well as all adjacent counties and counties within a 50-mile radius of the counties in the proclamation or declaration of emergency. The bill would require a housing listing platform to, among other things, alert local, regional, or state law enforcement agencies if it knows or has reason to believe that the price for a listing made available on the platform violates the price gouging provisions and to establish and maintain a policy

informing a person that listings are prohibited from violating the above-described provisions, as specified.

This bill would define “housing listing platform” for these purposes as an internet website, application, or other similar centralized platform that acts as an intermediary between a consumer and another person which allows another person to list the availability of housing, lodging, or units for sale or for rent to a consumer.

(5) Existing law allows a search warrant to be issued upon probable cause, supported by affidavit, naming or describing the person to be searched or searched for, and particularly describing the property, thing, or things and the place to be searched, and enumerates the grounds upon which a search warrant may be issued.

This bill would additionally authorize a search warrant to be issued when the property or things to be seized consists of evidence that tends to show that specified price gouging violations have occurred or are occurring.

~~Existing law prescribes the content of a summons in a civil action and how proof of service of a summons shall be made.~~

~~This bill would make nonsubstantive changes to the latter provision.~~

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

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

- 1     SECTION 1. Section 17206.3 is added to the Business and
- 2     Professions Code, to read:
- 3     17206.3. (a) (1) In addition to any liability for a civil penalty
- 4     pursuant to Section 17206, a person who violates this chapter, if
- 5     the act or acts of unfair competition are perpetrated against one
- 6     or more persons displaced due to a state of emergency or local
- 7     emergency, shall be liable for a civil penalty not to exceed two
- 8     thousand five hundred dollars (\$2,500) for each violation, which
- 9     may be assessed and recovered in a civil action as prescribed in
- 10    Section 17206.
- 11    (2) Any civil penalty shall be paid as prescribed by subdivisions
- 12    (b) and (c) of Section 17206.
- 13    (b) As used in this section, “state of emergency” and “local
- 14    emergency” have the same meaning as in Section 396 of the Penal
- 15    Code.

1     *SEC. 2. Title 1.4E (commencing with Section 1749.9) is added*  
2     *to Part 4 of Division 3 of the Civil Code, to read:*

3  
4             *TITLE 1.4E. HOUSING LISTING PLATFORMS*  
5

6     1749.9. (a) A housing listing platform shall do all of the  
7     following:

8         (1) Alert local, regional, or state law enforcement agencies if  
9         it knows or has reason to believe that the price for a listing made  
10        available on the housing listing platform violates Section 396 of  
11        the Penal Code.

12        (2) Establish and maintain a policy informing a person that  
13        listings are prohibited from violating Section 396 of the Penal  
14        Code, and that failure to comply may include consequences  
15        including, but not limited to, suspension or termination of the  
16        person's account.

17        (3) Provide a mechanism on the housing listing platform that  
18        allows any individual to notify the housing listing platform that a  
19        person may have violated Section 396 of the Penal Code.

20        (4) Provide a mechanism on the housing listing platform that  
21        allows the housing listing platform and law enforcement to  
22        communicate in a timely and confidential manner, including by  
23        means of a link to a dedicated web page, online portal, or point  
24        of contact and ensure timely replies to law enforcement requests,  
25        including warrants, subpoenas, and other legal processes.

26        (5) Maintain internal written policies, systems, and staff to  
27        monitor listings in order to affirmatively prevent price gouging.

28        (b) The policy and mechanism required by this subdivision shall  
29        be publicly posted and readily accessible to users.

30        (c) For purposes of this section, "housing listing platform"  
31        means an internet website, application, or other similar centralized  
32        platform that acts as an intermediary between a consumer and  
33        another person which allows another person to list the availability  
34        of housing, lodging, or units for sale or for rent to a consumer.

35     *SEC. 3. Section 1770 of the Civil Code is amended to read:*

36     1770. (a) The unfair methods of competition and unfair or  
37     deceptive acts or practices listed in this subdivision undertaken by  
38     any person in a transaction intended to result or that results in the  
39     sale or lease of goods or services to any consumer are unlawful:

40        (1) Passing off goods or services as those of another.

1 (2) Misrepresenting the source, sponsorship, approval, or  
2 certification of goods or services.

3 (3) Misrepresenting the affiliation, connection, or association  
4 with, or certification by, another.

5 (4) Using deceptive representations or designations of  
6 geographic origin in connection with goods or services.

7 (5) Representing that goods or services have sponsorship,  
8 approval, characteristics, ingredients, uses, benefits, or quantities  
9 that they do not have or that a person has a sponsorship, approval,  
10 status, affiliation, or connection that the person does not have.

11 (6) Representing that goods are original or new if they have  
12 deteriorated unreasonably or are altered, reconditioned, reclaimed,  
13 used, or secondhand.

14 (7) Representing that goods or services are of a particular  
15 standard, quality, or grade, or that goods are of a particular style  
16 or model, if they are of another.

17 (8) Disparaging the goods, services, or business of another by  
18 false or misleading representation of fact.

19 (9) Advertising goods or services with intent not to sell them  
20 as advertised.

21 (10) Advertising goods or services with intent not to supply  
22 reasonably expectable demand, unless the advertisement discloses  
23 a limitation of quantity.

24 (11) Advertising furniture without clearly indicating that it is  
25 unassembled if that is the case.

26 (12) Advertising the price of unassembled furniture without  
27 clearly indicating the assembled price of that furniture if the same  
28 furniture is available assembled from the seller.

29 (13) Making false or misleading statements of fact concerning  
30 reasons for, existence of, or amounts of, price reductions.

31 (14) Representing that a transaction confers or involves rights,  
32 remedies, or obligations that it does not have or involve, or that  
33 are prohibited by law.

34 (15) Representing that a part, replacement, or repair service is  
35 needed when it is not.

36 (16) Representing that the subject of a transaction has been  
37 supplied in accordance with a previous representation when it has  
38 not.

39 (17) Representing that the consumer will receive a rebate,  
40 discount, or other economic benefit, if the earning of the benefit

1 is contingent on an event to occur subsequent to the consummation  
2 of the transaction.

3 (18) Misrepresenting the authority of a salesperson,  
4 representative, or agent to negotiate the final terms of a transaction  
5 with a consumer.

6 (19) Inserting an unconscionable provision in the contract.

7 (20) Advertising that a product is being offered at a specific  
8 price plus a specific percentage of that price unless (A) the total  
9 price is set forth in the advertisement, which may include, but is  
10 not limited to, shelf tags, displays, and media advertising, in a size  
11 larger than any other price in that advertisement, and (B) the  
12 specific price plus a specific percentage of that price represents a  
13 markup from the seller's costs or from the wholesale price of the  
14 product. This subdivision shall not apply to in-store advertising  
15 by businesses that are open only to members or cooperative  
16 organizations organized pursuant to Division 3 (commencing with  
17 Section 12000) of Title 1 of the Corporations Code if more than  
18 50 percent of purchases are made at the specific price set forth in  
19 the advertisement.

20 (21) Selling or leasing goods in violation of Chapter 4  
21 (commencing with Section 1797.8) of Title 1.7.

22 (22) (A) Disseminating an unsolicited prerecorded message by  
23 telephone without an unrecorded, natural voice first informing the  
24 person answering the telephone of the name of the caller or the  
25 organization being represented, and either the address or the  
26 telephone number of the caller, and without obtaining the consent  
27 of that person to listen to the prerecorded message.

28 (B) This subdivision does not apply to a message disseminated  
29 to a business associate, customer, or other person having an  
30 established relationship with the person or organization making  
31 the call, to a call for the purpose of collecting an existing  
32 obligation, or to any call generated at the request of the recipient.

33 (23) (A) The home solicitation, as defined in subdivision (h)  
34 of Section 1761, of a consumer who is a senior citizen where a  
35 loan or assessment is made encumbering the primary residence of  
36 that consumer for purposes of paying for home improvements and  
37 where the transaction is part of a pattern or practice in violation  
38 any of the following:

39 (i) Subsection (h) or (i) of Section 1639 of Title 15 of the United  
40 States Code.

(ii) Paragraph (1), (2), or (4) of subdivision (a) of Section 226.34 of Title 12 of the Code of Federal Regulations.

(iii) Section 22684, 22685, 22686, or 22687 of the Financial Code.

(iv) Section 5898.16, 5898.17, 5913, 5922, 5923, 5924, 5925, 5926, or 5940 of the Streets and Highways Code.

(B) A third party shall not be liable under this subdivision unless (i) there was an agency relationship between the party who engaged in home solicitation and the third party, or (ii) the third party had actual knowledge of, or participated in, the unfair or deceptive transaction. A third party who is a holder in due course under a home solicitation transaction shall not be liable under this subdivision.

(24) (A) Charging or receiving an unreasonable fee to prepare, aid, or advise any prospective applicant, applicant, or recipient in the procurement, maintenance, or securing of public social services.

(B) For purposes of this paragraph:

(i) “Public social services” means those activities and functions of state and local government administered or supervised by the State Department of Health Care Services, the State Department of Public Health, or the State Department of Social Services, and involved in providing aid or services, or both, including health care services, and medical assistance, to those persons who, because of their economic circumstances or social condition, are in need of that aid or those services and may benefit from them.

(ii) “Public social services” also includes activities and functions administered or supervised by the United States Department of Veterans Affairs or the California Department of Veterans Affairs involved in providing aid or services, or both, to veterans, including pension benefits.

(iii) “Unreasonable fee” means a fee that is exorbitant and disproportionate to the services performed. Factors to be considered, if appropriate, in determining the reasonableness of a fee, are based on the circumstances existing at the time of the service and shall include, but not be limited to, all of the following:

(I) The time and effort required.

(II) The novelty and difficulty of the services.

(III) The skill required to perform the services.

(IV) The nature and length of the professional relationship.

1 (V) The experience, reputation, and ability of the person  
2 providing the services.

3 (C) This paragraph shall not apply to attorneys licensed to  
4 practice law in California, who are subject to the California Rules  
5 of Professional Conduct and to the mandatory fee arbitration  
6 provisions of Article 13 (commencing with Section 6200) of  
7 Chapter 4 of Division 3 of the Business and Professions Code,  
8 when the fees charged or received are for providing representation  
9 in administrative agency appeal proceedings or court proceedings  
10 for purposes of procuring, maintaining, or securing public social  
11 services on behalf of a person or group of persons.

12 (25) (A) Advertising or promoting any event, presentation,  
13 seminar, workshop, or other public gathering regarding veterans'  
14 benefits or entitlements that does not include the following  
15 statement in the same type size and font as the term "veteran" or  
16 any variation of that term:

17 (i) "I am not authorized to file an initial application for Veterans'  
18 Aid and Attendance benefits on your behalf, or to represent you  
19 before the Board of Veterans' Appeals within the United States  
20 Department of Veterans Affairs in any proceeding on any matter,  
21 including an application for those benefits. It would be illegal for  
22 me to accept a fee for preparing that application on your behalf."  
23 The requirements of this clause do not apply to a person licensed  
24 to act as an agent or attorney in proceedings before the Agency of  
25 Original Jurisdiction and the Board of Veterans' Appeals within  
26 the United States Department of Veterans Affairs when that person  
27 is offering those services at the advertised event.

28 (ii) The statement in clause (i) shall also be disseminated, both  
29 orally and in writing, at the beginning of any event, presentation,  
30 seminar, workshop, or public gathering regarding veterans' benefits  
31 or entitlements.

32 (B) Advertising or promoting any event, presentation, seminar,  
33 workshop, or other public gathering regarding veterans' benefits  
34 or entitlements that is not sponsored by, or affiliated with, the  
35 United States Department of Veterans Affairs, the California  
36 Department of Veterans Affairs, or any other congressionally  
37 chartered or recognized organization of honorably discharged  
38 members of the Armed Forces of the United States, or any of their  
39 auxiliaries that does not include the following statement, in the



1 same type size and font as the term “veteran” or the variation of  
2 that term:

3  
4 “This event is not sponsored by, or affiliated with, the United  
5 States Department of Veterans Affairs, the California Department  
6 of Veterans Affairs, or any other congressionally chartered or  
7 recognized organization of honorably discharged members of the  
8 Armed Forces of the United States, or any of their auxiliaries.  
9 None of the insurance products promoted at this sales event are  
10 endorsed by those organizations, all of which offer free advice to  
11 veterans about how to qualify and apply for benefits.”  
12

13 (i) The statement in this subparagraph shall be disseminated,  
14 both orally and in writing, at the beginning of any event,  
15 presentation, seminar, workshop, or public gathering regarding  
16 veterans’ benefits or entitlements.

17 (ii) The requirements of this subparagraph shall not apply in a  
18 case where the United States Department of Veterans Affairs, the  
19 California Department of Veterans Affairs, or other congressionally  
20 chartered or recognized organization of honorably discharged  
21 members of the Armed Forces of the United States, or any of their  
22 auxiliaries have granted written permission to the advertiser or  
23 promoter for the use of its name, symbol, or insignia to advertise  
24 or promote the event, presentation, seminar, workshop, or other  
25 public gathering.

26 (26) Advertising, offering for sale, or selling a financial product  
27 that is illegal under state or federal law, including any cash payment  
28 for the assignment to a third party of the consumer’s right to receive  
29 future pension or veteran’s benefits.

30 (27) Representing that a product is made in California by using  
31 a Made in California label created pursuant to Section 12098.10  
32 of the Government Code, unless the product complies with Section  
33 12098.10 of the Government Code.

34 (28) (A) Failing to include either of the following in a  
35 solicitation by a covered person, or an entity acting on behalf of  
36 a covered person, to a consumer for a consumer financial product  
37 or service:

38 (i) The name of the covered person, and, if applicable, the entity  
39 acting on behalf of the covered person, and relevant contact  
40 information, including a mailing address and telephone number.

(ii) (I) The following disclosure statement in at least 18-point bold type and in the language in which a solicitation described by this paragraph is drafted: “THIS IS AN ADVERTISEMENT. YOU ARE NOT REQUIRED TO MAKE ANY PAYMENT OR TAKE ANY OTHER ACTION IN RESPONSE TO THIS OFFER.”

(II) (ia) The disclosure statement described in subclause (I) shall appear in at least 16-point bold type on the front of an envelope that contains a solicitation described by this paragraph.

(ib) This subclause applies only to solicitations made by physical mail.

(B) For purposes of this paragraph:

(i) “Consumer financial product or service” has the same meaning as defined in Section 90005 of the Financial Code.

(ii) (I) “Covered person” has the same meaning as defined in Section 90005 of the Financial Code.

(II) “Covered person” does not mean an entity exempt from Division 24 (commencing with Section 90000) of the Financial Code pursuant to Section 90002 of the Financial Code.

(iii) “Solicitation” means an advertisement or marketing communication through writing or graphics that is directed to, or likely to give the impression of being directed to, an individually identified person, residence, or business location. “Solicitation” does not include any of the following:

(I) Communication through a mass advertisement, including in a catalog, on a radio or television broadcast, or on a publicly accessible internet website, if that communication is not directed to, or is not likely to give the impression of being directed to, an individually identified person, residence, or business location.

(II) Communication via a telephone, mail, or electronic communication that was initiated by a consumer.

(III) A written credit or insurance solicitation that is subject to the disclosure requirements of subsection (d) of Section 1681m of Title 15 of the United States Code.

(29) (A) Advertising, displaying, or offering a price for a good or service that does not include all mandatory fees or charges other than either of the following:

(i) Taxes or fees imposed by a government on the transaction.

(ii) Postage or carriage charges that will be reasonably and actually incurred to ship the physical good to the consumer.

1 (B) Compliance by a person providing broadband internet access  
2 service on its own or as part of a bundle, as defined in Section  
3 8.1(b) of Title 47 of the Code of Federal Regulations, with the  
4 broadband consumer label requirements adopted by the Federal  
5 Communications Commission in FCC 22-86 on November 14,  
6 2022, codified in Section 8.1(a) of Title 47 of the Code of Federal  
7 Regulations, shall be deemed compliance with this paragraph.

8 (C) (i) For purposes of this subparagraph, “financial entity”  
9 means an entity that is exempt from Division 24 (commencing  
10 with Section 90000) of the Financial Code pursuant to Section  
11 90002 of the Financial Code.

12 (ii) A financial entity that is required to provide disclosures in  
13 compliance with any of the following federal or state acts or  
14 regulations with respect to a financial transaction is exempt from  
15 this paragraph for purposes of that financial transaction:

16 (I) The federal Truth in Savings Act, as amended (12 U.S.C.  
17 Sec. 4301 et seq.).

18 (II) The federal Electronic Fund Transfer Act, as amended (15  
19 U.S.C. Sec. 1693 et seq.).

20 (III) Section 19 of the Federal Reserve Act, as amended (12  
21 U.S.C. Sec. 461 et seq.).

22 (IV) The federal Truth in Lending Act, as amended (15 U.S.C.  
23 Sec. 1601 et seq.).

24 (V) The federal Real Estate Settlement Procedures Act, as  
25 amended (12 U.S.C. Sec. 2601 et seq.).

26 (VI) The federal Home Ownership and Equity Protection Act  
27 (15 U.S.C. Sec. 1639).

28 (VII) Any regulation adopted pursuant to any of the federal acts  
29 in subclauses (I) to (VI), inclusive.

30 (VIII) The California Financing Law (Division 9 (commencing  
31 with Section 22000) of the Financial Code).

32 (IX) The California Residential Mortgage Lending Act (Division  
33 20 (commencing with Section 50000) of the Financial Code).

34 (X) The Real Estate Law (Part 1 (commencing with Section  
35 10000) of Division 4 of the Business and Professions Code).

36 (XI) Any regulation adopted pursuant to any of the state acts in  
37 subclauses (VIII) to (X), inclusive.

38 (D) (i) Subject to clause (ii), this paragraph does not apply to  
39 a mandatory fee or charge for individual food or beverage items  
40 sold directly to a customer by a restaurant, bar, food concession,

1 grocery store, or grocery delivery service, or by means of a menu  
2 or contract for banquet or catering services that fully discloses the  
3 terms of service.

4 (ii) A mandatory fee or charge under clause (i) shall be clearly  
5 and conspicuously displayed, with an explanation of its purpose,  
6 on any advertisement, menu, or other display that contains the  
7 price of the food or beverage item.

8 (iii) “Grocery delivery service” means a company owned by,  
9 or under contract with, a grocery store or distributor that delivers  
10 food, primarily fresh produce, meat, poultry, fish, deli products,  
11 dairy products, perishable beverages, baked foods, and prepared  
12 foods, from the grocery store or distributor to a consumer.

13 (iv) The exemption in this subparagraph does not apply to a  
14 “third-party food delivery platform,” as defined in Section  
15 113930.5 of the Health and Safety Code, or any other food delivery  
16 platform.

17 (30) *Engage in a violation of Section 396 of the Penal Code,*  
18 *including, but not limited to, price gouging during a state of*  
19 *emergency or local emergency.*

20 (b) (1) It is an unfair or deceptive act or practice for a mortgage  
21 broker or lender, directly or indirectly, to use a home improvement  
22 contractor to negotiate the terms of any loan that is secured,  
23 whether in whole or in part, by the residence of the borrower and  
24 that is used to finance a home improvement contract or any portion  
25 of a home improvement contract. For purposes of this subdivision,  
26 “mortgage broker or lender” includes a finance lender licensed  
27 pursuant to the California Financing Law (Division 9 (commencing  
28 with Section 22000) of the Financial Code), a residential mortgage  
29 lender licensed pursuant to the California Residential Mortgage  
30 Lending Act (Division 20 (commencing with Section 50000) of  
31 the Financial Code), or a real estate broker licensed under the Real  
32 Estate Law (Division 4 (commencing with Section 10000) of the  
33 Business and Professions Code).

34 (2) This section shall not be construed to either authorize or  
35 prohibit a home improvement contractor from referring a consumer  
36 to a mortgage broker or lender by this subdivision. However, a  
37 home improvement contractor may refer a consumer to a mortgage  
38 lender or broker if that referral does not violate Section 7157 of  
39 the Business and Professions Code or any other law. A mortgage  
40 lender or broker may purchase an executed home improvement

1 contract if that purchase does not violate Section 7157 of the  
2 Business and Professions Code or any other law. Nothing in this  
3 paragraph shall have any effect on the application of Chapter 1  
4 (commencing with Section 1801) of Title 2 to a home improvement  
5 transaction or the financing of a home improvement transaction.

6 (c) As of July 1, 2025, any disclosure, advertisement, or notice  
7 that is required to be “clearly” or “clearly and conspicuously”  
8 made must have text that is “clear and conspicuous,” as defined  
9 in subdivision (u) of Section 1791.

10 (d) This section shall become operative on July 1, 2024.

11 *SEC. 4. Section 3345 of the Civil Code is amended to read:*

12 3345. (a) This section shall apply only in actions brought by,  
13 on behalf of, or for the benefit of those individuals specified in  
14 paragraphs (1) to (3), inclusive, to redress unfair or deceptive acts  
15 or practices or unfair methods of competition.

16 (1) Senior citizens, as defined in subdivision (f) of Section 1761.

17 (2) Disabled persons, as defined in subdivision (g) of Section  
18 1761.

19 (3) Veterans, as defined in Section 18540.4 of the Government  
20 Code.

21 (4) *Persons displaced due to a state of emergency or a local*  
22 *emergency, as defined in Section 17206.3 of the Business and*  
23 *Professions Code.*

24 (b) Whenever a trier of fact is authorized by a statute to impose  
25 either a fine, or a civil penalty or other penalty, or any other remedy  
26 the purpose or effect of which is to punish or deter, and the amount  
27 of the fine, penalty, or other remedy is subject to the trier of fact’s  
28 discretion, the trier of fact shall consider the factors set forth in  
29 paragraphs (1) to ~~(3)~~, (4), inclusive, in addition to other appropriate  
30 factors, in determining the amount of fine, civil penalty or other  
31 penalty, or other remedy to impose. Whenever the trier of fact  
32 makes an affirmative finding in regard to one or more of the factors  
33 set forth in paragraphs (1) to ~~(3)~~, (4), inclusive, it may impose a  
34 fine, civil penalty or other penalty, or other remedy in an amount  
35 up to three times greater than authorized by the statute, or, where  
36 the statute does not authorize a specific amount, up to three times  
37 greater than the amount the trier of fact would impose in the  
38 absence of that affirmative finding.

39 (1) Whether the defendant knew or should have known that  
40 their conduct was directed to one or more senior citizens, disabled

1 persons, ~~or veterans~~. *veterans, or persons displaced due to a state*  
2 *of emergency or a local emergency.*

3 (2) Whether the defendant's conduct caused one or more senior  
4 citizens, disabled persons, ~~or veterans~~ *veterans, or persons*  
5 *displaced due to a state of emergency or local emergency* to suffer:  
6 loss or encumbrance of a primary residence, principal employment,  
7 or source of income; substantial loss of property set aside for  
8 retirement, or for personal or family care and maintenance; or  
9 substantial loss of payments received under a pension or retirement  
10 plan or a government benefits program, or assets essential to the  
11 health or welfare of the senior citizen, disabled person, ~~or veteran~~.  
12 *veteran, or person displaced due to a state of emergency or local*  
13 *emergency.*

14 (3) Whether one or more senior citizens, disabled persons, ~~or~~  
15 ~~veterans~~ *veterans, or persons displaced due to a state of emergency*  
16 *or local emergency* are substantially more vulnerable than other  
17 members of the public to the defendant's conduct because of age,  
18 poor health or infirmity, impaired understanding, restricted  
19 mobility, or disability, and actually suffered substantial physical,  
20 emotional, or economic damage resulting from the defendant's  
21 conduct.

22 *SEC. 5. Section 396 of the Penal Code is amended to read:*

23 396. (a) The Legislature hereby finds that during a state of  
24 emergency or local emergency, including, but not limited to, an  
25 earthquake, flood, fire, riot, storm, drought, plant or animal  
26 infestation or disease, pandemic or epidemic disease outbreak, or  
27 other natural or manmade disaster, some merchants have taken  
28 unfair advantage of consumers by greatly increasing prices for  
29 essential consumer goods and services. While the pricing of  
30 consumer goods and services is generally best left to the  
31 marketplace under ordinary conditions, when a declared state of  
32 emergency or local emergency results in abnormal disruptions of  
33 the market, the public interest requires that excessive and  
34 unjustified increases in the prices of essential consumer goods and  
35 services be prohibited. It is the intent of the Legislature in enacting  
36 this act to protect citizens from excessive and unjustified increases  
37 in the prices charged during or shortly after a declared state of  
38 emergency or local emergency for goods and services that are vital  
39 and necessary for the health, safety, and welfare of consumers,  
40 whether those goods and services are offered or sold in person, in

1 stores, or online. Further, it is the intent of the Legislature that this  
2 section be liberally construed so that its beneficial purposes may  
3 ~~be served.~~ *served, including, but not limited to, curbing price*  
4 *gouging.*

5 (b) Upon the proclamation of a state of emergency declared by  
6 the President of the United States or the Governor, or upon the  
7 declaration of a local emergency by an official, board, or other  
8 governing body vested with authority to make that declaration in  
9 any county, city, or city and county, and for a period of 30 days  
10 following that proclamation or declaration, it is unlawful for a  
11 person, contractor, business, or other entity to sell or offer to sell  
12 any consumer food items or goods, goods or services used for  
13 emergency cleanup, emergency supplies, medical supplies, home  
14 heating oil, building materials, housing, transportation, freight,  
15 and storage services, or gasoline or other motor fuels for a price  
16 of more than 10 percent greater than the price charged by that  
17 person for those goods or services immediately prior to the  
18 proclamation or declaration of emergency, or prior to a date set in  
19 the proclamation or declaration. However, a greater price increase  
20 is not unlawful if that person can prove that the increase in price  
21 was directly attributable to additional costs imposed on it by the  
22 supplier of the goods, or directly attributable to additional costs  
23 for labor or materials used to provide the services, during the state  
24 of emergency or local emergency, and the price is no more than  
25 10 percent greater than the total of the cost to the seller plus the  
26 markup customarily applied by that seller for that good or service  
27 in the usual course of business immediately prior to the onset of  
28 the state of emergency or local emergency. If the person, contractor,  
29 business, or other entity did not charge a price for the goods or  
30 services immediately prior to the proclamation or declaration of  
31 emergency, it may not charge a price that is more than 50 percent  
32 greater than the cost thereof to the vendor as “cost” is defined in  
33 Section 17026 of the Business and Professions Code.

34 (c) Upon the proclamation of a state of emergency declared by  
35 the President of the United States or the Governor, or upon the  
36 declaration of a local emergency by an official, board, or other  
37 governing body vested with authority to make that declaration in  
38 any county, city, or city and county, and for a period of 180 days  
39 following that proclamation or declaration, it is unlawful for a  
40 contractor to sell or offer to sell any repair or reconstruction

1 services or any services used in emergency cleanup for a price of  
2 more than 10 percent above the price charged by that person for  
3 those services immediately prior to the proclamation or declaration  
4 of emergency. However, a greater price increase is not unlawful  
5 if that person can prove that the increase in price was directly  
6 attributable to additional costs imposed on it by the supplier of the  
7 goods, or directly attributable to additional costs for labor or  
8 materials used to provide the services, during the state of  
9 emergency or local emergency, and the price represents no more  
10 than 10 percent greater than the total of the cost to the contractor  
11 plus the markup customarily applied by the contractor for that  
12 good or service in the usual course of business immediately prior  
13 to the onset of the state of emergency or local emergency.

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

28 (e) Upon the proclamation of a state of emergency declared by  
29 the President of the United States or the Governor, or upon the  
30 declaration of a local emergency by an official, board, or other  
31 governing body vested with authority to make that declaration in  
32 any city, county, or city and county, and for a period of 30 days  
33 following that proclamation or declaration, or any period the  
34 proclamation or declaration is extended by the applicable authority,  
35 it is unlawful for any person, business, or other entity, to increase  
36 the rental price, as defined in paragraph (11) of subdivision (j),  
37 advertised, offered, or charged for housing, to an existing or  
38 prospective tenant, by more than 10 percent. However, a greater  
39 rental price increase is not unlawful if that person can prove that  
40 the increase is directly attributable to additional costs for repairs



1 or additions beyond normal maintenance that were amortized over  
2 the rental term that caused the rent to be increased greater than 10  
3 percent or that an increase was contractually agreed to by the tenant  
4 prior to the proclamation or declaration. It shall not be a defense  
5 to a prosecution under this subdivision that an increase in rental  
6 price was based on the length of the rental term, the inclusion of  
7 additional goods or services, except as provided in paragraph (11)  
8 of subdivision (j) with respect to furniture, or that the rent was  
9 offered by, or paid by, an insurance company, or other third party,  
10 on behalf of a tenant. This subdivision does not authorize a landlord  
11 to charge a price greater than the amount authorized by a local rent  
12 control ordinance.

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

27 (g) (1) The prohibitions of this section may be extended for  
28 additional periods, as needed, by a local legislative body, local  
29 official, *or* the Governor, ~~or the Legislature~~, if deemed necessary  
30 to protect the lives, property, or welfare of the citizens. Each  
31 extension by a local legislative body or local official shall not  
32 exceed 30 days. An extension may also authorize specified price  
33 increases that exceed the amount that would be permissible under  
34 this section during the initial 30 or 180 days after a proclamation  
35 or declaration of emergency.

36 (2) *An extension authorized by the Governor may be terminated*  
37 *by a concurrent resolution of the Legislature declaring it at an*  
38 *end, consistent with Section 8629 of the Government Code.*

39 (h) A violation of this section is a misdemeanor punishable by  
40 imprisonment in a county jail for a period not exceeding one year,

1 by a fine of not more than ten thousand dollars (\$10,000), or by  
2 both that fine and imprisonment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (B) For housing not rented and not offered for rent within one  
35 year prior to the proclamation or declaration of emergency, 160  
36 percent of the fair market rent established by the United States  
37 Department of Housing and Urban Development. This amount  
38 may be increased by 5 percent if the housing is offered for rent  
39 fully furnished. This amount shall not be adjusted for any other

1 good or service, including, but not limited to, gardening or utilities  
2 currently or formerly provided in connection with the lease.

3 (C) Housing advertised, offered, or charged, at a daily rate at  
4 the time of the declaration or proclamation of emergency, shall be  
5 subject to the rental price described in subparagraph (A), if the  
6 housing continues to be advertised, offered, or charged, at a daily  
7 rate. Housing advertised, offered, or charged, on a daily basis at  
8 the time of the declaration or proclamation of emergency, shall be  
9 subject to the rental price in subparagraph (B), if the housing is  
10 advertised, offered, or charged, on a periodic lease agreement after  
11 the declaration or proclamation of emergency.

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

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

25 (13) *“Price gouging” is the unlawful conduct of charging higher*  
26 *or greater prices as specified in subdivisions (b) to (f), inclusive.*

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

30 (l) A business offering an item for sale, or a service, at a reduced  
31 price immediately prior to the proclamation or declaration of the  
32 emergency may use the price it normally charges for the item or  
33 service to calculate the price pursuant to subdivision (b) or (c).

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

37 (n) *This section applies to all counties in the proclamation or*  
38 *declaration of emergency as well as all adjacent counties and*  
39 *counties within a 50-mile radius of the counties in the proclamation*  
40 *or declaration of emergency.*

SEC. 6. *Section 1524 of the Penal Code, as added by Section 11.5 of Chapter 544 of the Statutes of 2024, is amended to read:*

1524. (a) A search warrant may be issued upon any of the following grounds:

(1) When the property was stolen or embezzled.

(2) When the property or things were used as the means of committing a felony.

(3) When the property or things are in the possession of a person with the intent to use them as a means of committing a public offense, or in the possession of another to whom that person may have delivered them for the purpose of concealing them or preventing them from being discovered.

(4) When the property or things to be seized consist of an item or constitute evidence that tends to show a felony has been committed, or tends to show that a particular person has committed a felony.

(5) When the property or things to be seized consist of evidence that tends to show that sexual exploitation of a child, in violation of Section 311.3, or possession of matter depicting sexual conduct of a person under 18 years of age, in violation of Section 311.11, has occurred or is occurring.

(6) When there is a warrant to arrest a person.

(7) When a provider of electronic communication service or remote computing service has records or evidence, as specified in Section 1524.3, showing that property was stolen or embezzled constituting a misdemeanor, or that property or things are in the possession of a person with the intent to use them as a means of committing a misdemeanor public offense, or in the possession of another to whom that person may have delivered them for the purpose of concealing them or preventing their discovery.

(8) When the property or things to be seized include an item or evidence that tends to show a violation of Section 3700.5 of the Labor Code or tends to show that a particular person has violated Section 3700.5 of the Labor Code.

(9) When the property or things to be seized include a firearm or other deadly weapon at the scene of, or at the premises occupied or under the control of the person arrested in connection with, a domestic violence incident involving a threat to human life or a physical assault as provided in Section 18250. This section does

1 not affect warrantless seizures otherwise authorized by Section  
2 18250.

3 (10) When the property or things to be seized include a firearm  
4 or other deadly weapon that is owned by, or in the possession of,  
5 or in the custody or control of, a person described in subdivision  
6 (a) of Section 8102 of the Welfare and Institutions Code.

7 (11) When the property or things to be seized include a firearm  
8 that is owned by, or in the possession of, or in the custody or  
9 control of, a person who is subject to the prohibitions regarding  
10 firearms or ammunition or both pursuant to Section 6389 of the  
11 Family Code, if a prohibited firearm or ammunition or both is  
12 possessed, owned, in the custody of, or controlled by a person  
13 against whom a protective order has been issued pursuant to  
14 Section 6218 of the Family Code, the person has been lawfully  
15 served with that order, and the person has failed to relinquish the  
16 firearm or ammunition or both as required by law.

17 (12) When the information to be received from the use of a  
18 tracking device constitutes evidence that tends to show that either  
19 a felony, a misdemeanor violation of the Fish and Game Code, or  
20 a misdemeanor violation of the Public Resources Code has been  
21 committed or is being committed, tends to show that a particular  
22 person has committed a felony, a misdemeanor violation of the  
23 Fish and Game Code, or a misdemeanor violation of the Public  
24 Resources Code, or is committing a felony, a misdemeanor  
25 violation of the Fish and Game Code, or a misdemeanor violation  
26 of the Public Resources Code, or will assist in locating an  
27 individual who has committed or is committing a felony, a  
28 misdemeanor violation of the Fish and Game Code, or a  
29 misdemeanor violation of the Public Resources Code. A tracking  
30 device search warrant issued pursuant to this paragraph shall be  
31 executed in a manner meeting the requirements specified in  
32 subdivision (b) of Section 1534.

33 (13) When a sample of the blood of a person constitutes  
34 evidence that tends to show a violation of Section 23140, 23152,  
35 or 23153 of the Vehicle Code and the person from whom the  
36 sample is being sought has refused an officer's request to submit  
37 to, or has failed to complete, a blood test as required by Section  
38 23612 of the Vehicle Code, and the sample will be drawn from  
39 the person in a reasonable, medically approved manner. This  
40 paragraph is not intended to abrogate a court's mandate to

1 determine the propriety of the issuance of a search warrant on a  
2 case-by-case basis.

3 (14) Beginning January 1, 2016, the property or things to be  
4 seized are firearms or ammunition or both that are owned by, in  
5 the possession of, or in the custody or control of a person who is  
6 the subject of a gun violence restraining order that has been issued  
7 pursuant to Division 3.2 (commencing with Section 18100) of  
8 Title 2 of Part 6, if a prohibited firearm or ammunition or both is  
9 possessed, owned, in the custody of, or controlled by a person  
10 against whom a gun violence restraining order has been issued,  
11 the person has been lawfully served with that order, and the person  
12 has failed to relinquish the firearm as required by law.

13 (15) Beginning January 1, 2018, the property or things to be  
14 seized include a firearm that is owned by, or in the possession of,  
15 or in the custody or control of, a person who is subject to the  
16 prohibitions regarding firearms pursuant to Section 29800, 29805,  
17 29815, or 29825, and the court has made a finding pursuant to  
18 subdivision (c) of Section 29810 that the person has failed to  
19 relinquish the firearm as required by law.

20 (16) When the property or things to be seized are controlled  
21 substances or a device, contrivance, instrument, or paraphernalia  
22 used for unlawfully using or administering a controlled substance  
23 pursuant to the authority described in Section 11472 of the Health  
24 and Safety Code.

25 (17) (A) When all of the following apply:

26 (i) A sample of the blood of a person constitutes evidence that  
27 tends to show a violation of subdivision (b), (c), (d), (e), or (f) of  
28 Section 655 of the Harbors and Navigation Code.

29 (ii) The person from whom the sample is being sought has  
30 refused an officer's request to submit to, or has failed to complete,  
31 a blood test as required by Section 655.1 of the Harbors and  
32 Navigation Code.

33 (iii) The sample will be drawn from the person in a reasonable,  
34 medically approved manner.

35 (B) This paragraph is not intended to abrogate a court's mandate  
36 to determine the propriety of the issuance of a search warrant on  
37 a case-by-case basis.

38 (18) When the property or things to be seized consists of  
39 evidence that tends to show that a violation of paragraph (1), (2),  
40 or (3) of subdivision (j) of Section 647 has occurred or is occurring.

1 (19) (A) When the property or things to be seized are data, from  
2 a recording device installed by the manufacturer of a motor vehicle,  
3 that constitutes evidence that tends to show the commission of a  
4 felony or misdemeanor offense involving a motor vehicle, resulting  
5 in death or serious bodily injury to a person. The data accessed by  
6 a warrant pursuant to this paragraph shall not exceed the scope of  
7 the data that is directly related to the offense for which the warrant  
8 is issued.

9 (B) For the purposes of this paragraph, “recording device” has  
10 the same meaning as defined in subdivision (b) of Section 9951  
11 of the Vehicle Code. The scope of the data accessible by a warrant  
12 issued pursuant to this paragraph shall be limited to the information  
13 described in subdivision (b) of Section 9951 of the Vehicle Code.

14 (C) For the purposes of this paragraph, “serious bodily injury”  
15 has the same meaning as defined in paragraph (4) of subdivision  
16 (f) of Section 243.

17 (20) When the property or things to be seized consists of  
18 evidence that tends to show that a violation of Section 647.9 has  
19 occurred or is occurring. Evidence to be seized pursuant to this  
20 paragraph shall be limited to evidence of a violation of Section  
21 647.9 and shall not include evidence of a violation of a  
22 departmental rule or guideline that is not a public offense under  
23 California law.

24 (21) If the property to be seized includes ammunition and all  
25 of the following criteria are satisfied:

26 (A) The property is owned by, in the possession of, or in the  
27 custody or control of a person who is subject to the prohibition set  
28 forth in Section 8103 of the Welfare and Institutions Code.

29 (B) The person has been lawfully served with the order required  
30 by Section 8103 of the Welfare and Institutions Code.

31 (C) The person has failed to relinquish the ammunition as  
32 required by law.

33 (22) When the property or things to be seized include a firearm  
34 or ammunition or both that is owned by, or in the possession of,  
35 or in the custody or control of, a person who is subject to the  
36 prohibitions regarding firearms pursuant to Section 527.9 of the  
37 Code of Civil Procedure, the person has been lawfully served with  
38 that order, and the person has failed to relinquish the firearm or  
39 ammunition or both as required by law.



1     (23) *When the property or things to be seized consists of*  
2 *evidence that tends to show that a price gouging violation, as*  
3 *specified in subdivision (d), (e), or (f) of Section 396, has occurred*  
4 *or is occurring.*

5     (b) The property, things, person, or persons described in  
6 subdivision (a) may be taken on the warrant from a place or from  
7 a person in whose possession the property or things may be.

8     (c) Notwithstanding subdivision (a) or (b), a search warrant  
9 shall not be issued for documentary evidence in the possession or  
10 under the control of a person who is a lawyer as defined in Section  
11 950 of the Evidence Code, a physician as defined in Section 990  
12 of the Evidence Code, a psychotherapist as defined in Section 1010  
13 of the Evidence Code, or a member of the clergy as defined in  
14 Section 1030 of the Evidence Code, and who is not reasonably  
15 suspected of engaging or having engaged in criminal activity  
16 related to the documentary evidence for which a warrant is  
17 requested unless the following procedure has been complied with:

18     (1) At the time of the issuance of the warrant, the court shall  
19 appoint a special master in accordance with subdivision (d) to  
20 accompany the person who will serve the warrant. Upon service  
21 of the warrant, the special master shall inform the party served of  
22 the specific items being sought and that the party shall have the  
23 opportunity to provide the items requested. If the party, in the  
24 judgment of the special master, fails to provide the items requested,  
25 the special master shall conduct a search for the items in the areas  
26 indicated in the search warrant.

27     (2) (A) If the party who has been served states that an item or  
28 items should not be disclosed, they shall be sealed by the special  
29 master and taken to court for a hearing.

30     (B) At the hearing, the party searched shall be entitled to raise  
31 an issue that may be raised pursuant to Section 1538.5 as well as  
32 a claim that the item or items are privileged, as provided by law.  
33 The hearing shall be held in the superior court. The court shall  
34 provide sufficient time for the parties to obtain counsel and make  
35 motions or present evidence. The hearing shall be held within three  
36 days of the service of the warrant unless the court makes a finding  
37 that the expedited hearing is impracticable. In that case, the matter  
38 shall be heard at the earliest possible time.

39     (C) If an item or items are taken to court for a hearing, a  
40 limitation of time prescribed in Chapter 2 (commencing with

1 Section 799) of Title 3 shall be tolled from the time of the seizure  
2 until the final conclusion of the hearing, including an associated  
3 writ or appellate proceedings.

4 (3) The warrant shall, whenever practicable, be served during  
5 normal business hours. In addition, the warrant shall be served  
6 upon a party who appears to have possession or control of the  
7 items sought. If, after reasonable efforts, the party serving the  
8 warrant is unable to locate the person, the special master shall seal  
9 and return to the court, for determination by the court, an item that  
10 appears to be privileged as provided by law.

11 (d) (1) As used in this section, a “special master” is an attorney  
12 who is a member in good standing of the California State Bar and  
13 who has been selected from a list of qualified attorneys that is  
14 maintained by the State Bar particularly for the purposes of  
15 conducting the searches described in this section. These attorneys  
16 shall serve without compensation. A special master shall be  
17 considered a public employee, and the governmental entity that  
18 caused the search warrant to be issued shall be considered the  
19 employer of the special master and the applicable public entity,  
20 for purposes of Division 3.6 (commencing with Section 810) of  
21 Title 1 of the Government Code, relating to claims and actions  
22 against public entities and public employees. In selecting the  
23 special master, the court shall make every reasonable effort to  
24 ensure that the person selected has no relationship with any of the  
25 parties involved in the pending matter. Information obtained by  
26 the special master shall be confidential and may not be divulged  
27 except in direct response to inquiry by the court.

28 (2) In a case in which the magistrate determines that, after  
29 reasonable efforts have been made to obtain a special master, a  
30 special master is not available and would not be available within  
31 a reasonable period of time, the magistrate may direct the party  
32 seeking the order to conduct the search in the manner described  
33 in this section in lieu of the special master.

34 (e) A search conducted pursuant to this section by a special  
35 master may be conducted in a manner that permits the party serving  
36 the warrant or that party’s designee to accompany the special  
37 master as the special master conducts the search. However, that  
38 party or that party’s designee may not participate in the search nor  
39 shall they examine any of the items being searched by the special

1 master except upon agreement of the party upon whom the warrant  
2 has been served.

3 (f) As used in this section, “documentary evidence” includes,  
4 but is not limited to, writings, documents, blueprints, drawings,  
5 photographs, computer printouts, microfilms, x-rays, files,  
6 diagrams, ledgers, books, tapes, audio and video recordings, films,  
7 and papers of any type or description.

8 (g) No warrant shall issue for an item or items described in  
9 Section 1070 of the Evidence Code.

10 (h) No warrant shall issue for an item or items that pertain to  
11 an investigation into a prohibited violation, as defined in Section  
12 629.51.

13 (i) Notwithstanding any other law, no claim of attorney work  
14 product as described in Chapter 4 (commencing with Section  
15 2018.010) of Title 4 of Part 4 of the Code of Civil Procedure shall  
16 be sustained where there is probable cause to believe that the  
17 lawyer is engaging or has engaged in criminal activity related to  
18 the documentary evidence for which a warrant is requested unless  
19 it is established at the hearing with respect to the documentary  
20 evidence seized under the warrant that the services of the lawyer  
21 were not sought or obtained to enable or aid anyone to commit or  
22 plan to commit a crime or a fraud.

23 (j) Nothing in this section is intended to limit an attorney’s  
24 ability to request an in-camera hearing pursuant to the holding of  
25 the Supreme Court of California in *People v. Superior Court (Laff)*  
26 (2001) 25 Cal.4th 703.

27 (k) In addition to any other circumstance permitting a magistrate  
28 to issue a warrant for a person or property in another county, when  
29 the property or things to be seized consist of any item or constitute  
30 evidence that tends to show a violation of Section 530.5, the  
31 magistrate may issue a warrant to search a person or property  
32 located in another county if the person whose identifying  
33 information was taken or used resides in the same county as the  
34 issuing court.

35 (l) This section does not create a cause of action against a foreign  
36 or California corporation, its officers, employees, agents, or other  
37 specified persons for providing location information.

38 (m) This section shall become operative on January 1, 2026.

39 ~~SECTION 1. Section 417.10 of the Code of Civil Procedure~~  
40 ~~is amended to read:~~

1     ~~417.10.—Proof that a summons was served on a person within~~  
2     ~~this state shall be made:~~

3     ~~(a) If served under Section 415.10, 415.20, or 415.30, by the~~  
4     ~~affidavit of the person making the service showing the time, place,~~  
5     ~~and manner of service and facts showing that the service was made~~  
6     ~~in accordance with this chapter. The affidavit shall recite or in~~  
7     ~~other manner show the name of the person to whom a copy of the~~  
8     ~~summons and of the complaint were delivered, and, if appropriate,~~  
9     ~~their title or the capacity in which they are served, and that the~~  
10    ~~notice required by Section 412.30 appeared on the copy of the~~  
11    ~~summons served, if it appeared.~~

12    ~~If service is made by mail pursuant to Section 415.30, proof of~~  
13    ~~service shall include the acknowledgment of receipt of the~~  
14    ~~summons in the form provided by that section or other written~~  
15    ~~acknowledgment of receipt of the summons satisfactory to the~~  
16    ~~court.~~

17    ~~(b) If served by publication pursuant to Section 415.50, by the~~  
18    ~~affidavit of the publisher or printer, or their foreperson or principal~~  
19    ~~clerk, showing the time and place of publication, and an affidavit~~  
20    ~~showing the time and place a copy of the summons and of the~~  
21    ~~complaint were mailed to the party to be served, if it was mailed.~~

22    ~~(c) If served pursuant to another law of this state, in the manner~~  
23    ~~prescribed by that law or, if no manner is prescribed, in the manner~~  
24    ~~prescribed by this section for proof of a similar manner of service.~~

25    ~~(d) By the written admission of the party.~~

26    ~~(e) If served by posting pursuant to Section 415.45, by the~~  
27    ~~affidavit of the person who posted the premises, showing the time~~  
28    ~~and place of posting, and an affidavit showing the time and place~~  
29    ~~copies of the summons and of the complaint were mailed to the~~  
30    ~~party to be served, if it was mailed.~~

31    ~~(f) All proof of personal service shall be made on a form adopted~~  
32    ~~by the Judicial Council.~~