

AMENDED IN SENATE MAY 7, 2013

SENATE BILL

No. 255

Introduced by Senator Cannella

February 13, 2013

An act to amend Section 78581 of the Food and Agricultural Code, relating to agriculture amend Section 653.2 of the Penal Code, relating to crimes, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 255, as amended, Cannella. ~~Agriculture: California Seafood Council.~~ *Electronic communication devices: prohibited distribution of personal information.*

Existing law makes it a crime for a person who, with the intent to place another person in reasonable fear for his or her safety, or the safety of the other person's immediate family, by means of an electronic communication device, and without consent of the other person, and for the purpose of imminently causing that other person unwanted contact, injury, or harassment by a 3rd party, distributes specified identifying information that would be likely to incite or produce that unlawful action.

This bill would make it a misdemeanor for any person who, with the intent to cause substantial emotional distress or humiliation to another person, by means of an electronic communication device, and without consent of the other person, electronically distributes, publishes, emails, hyperlinks, or makes available for downloading nude images of the other person along with personal identifying information of the other person.

By creating a new crime, this bill would impose a state-mandated local program.

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

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

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

~~Existing law requires the Secretary of Food and Agriculture to take various actions with respect to agricultural marketing advisory and promotional councils and commissions, including the California Seafood Council.~~

~~This bill would make nonsubstantive changes to those provisions relating to the California Seafood Council.~~

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

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

1 *SECTION 1. Section 653.2 of the Penal Code is amended to*
2 *read:*

3 653.2. (a) (1) Every person who, with intent to place another
4 person in reasonable fear for his or her safety, or the safety of the
5 other person's immediate family, by means of an electronic
6 communication device, and without consent of the other person,
7 and for the purpose of imminently causing that other person
8 unwanted physical contact, injury, or harassment, by a third party,
9 electronically distributes, publishes, e-mails, hyperlinks, or makes
10 available for downloading, personal identifying information,
11 including, but not limited to, a digital image of another person, or
12 an electronic message of a harassing nature about another person,
13 which would be likely to incite or produce that unlawful action,
14 is guilty of a misdemeanor punishable by up to one year in a county
15 jail, by a fine of not more than one thousand dollars (\$1,000), or
16 by both that fine and imprisonment.

17 (2) *Every person who, with the intent to cause substantial*
18 *emotional distress or humiliation, by means of an electronic*
19 *communication device, and without consent of the other person,*
20 *electronically distributes, publishes, emails, hyperlinks, or makes*
21 *available for downloading nude images of the other person along*

1 *with personal identifying information of the other person, is guilty*
2 *of a misdemeanor punishable by up to one year in a county jail,*
3 *by a fine of not more than one thousand dollars (\$1,000), or by*
4 *both that fine and imprisonment.*

5 (b) For purposes of this section, “electronic communication
6 device” includes, but is not limited to, telephones, cell phones,
7 computers, Internet Web pages or sites, Internet phones, hybrid
8 cellular/Internet/wireless devices, personal digital assistants
9 (PDAs), video recorders, fax machines, or pagers. “Electronic
10 communication” has the same meaning as the term is defined in
11 Section 2510(12) of Title 18 of the United States Code.

12 (c) For purposes of this section, the following terms apply:

13 (1) “Harassment” means a knowing and willful course of
14 conduct directed at a specific person that a reasonable person would
15 consider as seriously alarming, seriously annoying, seriously
16 tormenting, or seriously terrorizing the person and that serves no
17 legitimate purpose.

18 (2) “Of a harassing nature” means of a nature that a reasonable
19 person would consider as seriously alarming, seriously annoying,
20 seriously tormenting, or seriously terrorizing of the person and
21 that serves no legitimate purpose.

22 *SEC. 2. No reimbursement is required by this act pursuant to*
23 *Section 6 of Article XIII B of the California Constitution because*
24 *the only costs that may be incurred by a local agency or school*
25 *district will be incurred because this act creates a new crime or*
26 *infraction, eliminates a crime or infraction, or changes the penalty*
27 *for a crime or infraction, within the meaning of Section 17556 of*
28 *the Government Code, or changes the definition of a crime within*
29 *the meaning of Section 6 of Article XIII B of the California*
30 *Constitution.*

31 *SEC. 3. This act is an urgency statute necessary for the*
32 *immediate preservation of the public peace, health, or safety within*
33 *the meaning of Article IV of the Constitution and shall go into*
34 *immediate effect. The facts constituting the necessity are:*

35 *In order to protect the privacy of the public and the safety of the*
36 *public at the earliest possible time, it is necessary for this act to*
37 *take effect immediately.*

38 ~~SECTION 1. Section 78581 of the Food and Agricultural Code~~
39 ~~is amended to read:~~

1 ~~78581. (a) If the secretary finds that a favorable vote has been~~
2 ~~given, the secretary shall certify and give notice of the favorable~~
3 ~~vote to all receivers whose names and addresses are on file with~~
4 ~~the secretary.~~

5 ~~(b) If the secretary finds that a favorable vote has not been given,~~
6 ~~the secretary shall so certify and declare this chapter inoperative.~~
7 ~~The secretary shall also notify the appropriate policy committees~~
8 ~~in both the Assembly and Senate that the chapter is inoperative.~~