

Senate Bill No. 223

CHAPTER 721

An act to add Division 10.9 (commencing with Section 11999.20) to the Health and Safety Code, and to amend Sections 1210, 1210.1, and 3063.1 of, and to add Sections 1210.5 and 3063.2 to, the Penal Code, relating to drug testing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 10, 2001. Filed
with Secretary of State October 11, 2001.]

I am signing Senate Bill 223, but I am deleting the \$9.6 million General Fund appropriation for drug testing and thereby reducing the overall appropriation in this bill from \$18 million to \$8.4 million.

This bill would allow drug testing for clients treated under the Substance Abuse and Crime Prevention Act of 2000 (Proposition 36) and would provide \$9.6 million General Fund and \$8.4 million federal Substance Abuse Prevention and Treatment (SAPT) Block Grant funds for that purpose.

I strongly support drug testing as a component of substance abuse treatment and I am retaining the \$8.4 million federal funding in the bill for that purpose. The DADP estimates that the federal SAPT funds are sufficient to meet local needs for drug testing. In addition, given the rapid decline of our economy and a budget shortfall of \$1.1 billion through the first three months of this fiscal year alone, I have no choice but to oppose additional General Fund spending.

I am directing the Department of Alcohol and Drug Programs (DADP) to use \$8.4 million from the federal fiscal year (FFY) 2001 SAPT award for drug testing in 2001–02. Because the need for drug testing will continue, I will include funding from the FFY 2002 award for drug testing in my 2002–03 Budget. Further, I direct the DADP to encourage the counties to make drug testing a priority for use of these federal funds.

GRAY DAVIS, Governor

LEGISLATIVE COUNSEL'S DIGEST

SB 223, Burton. Drug testing.

Existing law added by initiative statute provides that effective July 1, 2001, except as specified, a person convicted of a nonviolent drug possession offense shall receive probation with completion of a drug treatment program as a condition of probation. That initiative statute also provides that effective July 1, 2001, except as specified, a person's parole may not be suspended or revoked for commission of a nonviolent drug possession offense or for violating a drug-related condition of parole, but that an additional condition of parole for those offenses or violations shall be completion of a drug treatment program. Existing law creates a state fund to award counties money to implement the drug



treatment requirements of the initiative statute, but prohibits money in that fund from being used to pay for the cost of drug testing.

Existing law provides that if a person who is placed on probation for a nonviolent drug possession offense or who is on parole violates a drug-related condition of probation or parole, then, for the first drug-related violation, the person's probation or parole may be revoked if the state proves that the person is a danger to the safety of others. Existing law further provides that for the 2nd drug-related violation of probation, the person's probation may be revoked if the state proves either that the person poses a danger to the safety of others or is unamenable to drug treatment. Existing law also allows for revocation of a person's probation or parole if the probation department or parole authority moves for revocation on the ground that the person is unamenable to all forms of drug treatment, and the person fails to prove that there is a drug treatment program to which he or she is amenable.

This bill would appropriate \$9,600,000 from the General Fund to be used by the State Department of Drug and Alcohol Programs to award counties grants to pay for drug testing if the counties have on file with the department an approved plan for implementing the above-mentioned initiative statute that includes a description of the process to be used for substance abuse treatment and testing consistent with specified sections of existing law. This bill would also appropriate \$8,400,000 from the Federal Substance Abuse Prevention and Treatment Block Grant to be used by the State Department of Drug and Alcohol Programs for drug testing and other purposes. This bill further states that where drug treatment is a condition of a person's probation or parole, drug testing shall be used as a drug treatment tool, and the results of any drug testing shall not be given greater weight than other aspects of the person's treatment program. This bill would also specify that for the purposes of the initiative, drug treatment must be provided by a program that is licensed or certified by the state, or by a drug treatment program operated under the direction of the Veterans Health Administration of the Department of Veterans Affairs or a program provided in a specified provision of law.

This bill would specify that the term "drug-related condition" of probation or parole include the drug treatment regimen, employment, vocational training, educational programs, and counseling. This bill would also expand the types of activities that constitute drug-related probation and parole violations in connection with revocation of probation and parole. In addition, this bill would require proof that a person is unamenable to all forms of drug treatment, and would eliminate the requirement that the person prove there is a drug treatment program to which he or she is amenable, before probation or parole can



be revoked on the ground that the person is unamenable to all forms of drug treatment.

Since this bill would add provisions that supplement provisions of the above-mentioned initiative, it would amend that initiative statute and, in accordance with the requirements of that initiative statute, would require a 2/3 vote for enactment by the Legislature.

This bill would provide that if it becomes effective before July 1, 2001, it will become operative on July 1, 2001.

This bill would declare that it is to take effect immediately as an urgency statute, and would authorize the Director of Alcohol and Drug Programs to (1) implement specified provisions by means of a letter to county lead agencies; and (2) adopt emergency regulations to implement those provisions, as specified.

Appropriation: yes.

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

SECTION 1. Division 10.9 (commencing with Section 11999.20) is added to the Health and Safety Code, to read:

DIVISION 10.9. SUBSTANCE ABUSE TESTING AND TREATMENT ACCOUNTABILITY PROGRAM

11999.20. The State Department of Alcohol and Drug Programs shall administer and award grants to counties to supplement funding provided under the Substance Abuse and Crime Prevention Act of 2000 for the purpose of funding substance abuse testing for eligible offenders. Funding shall be used to supplement, rather than supplant, funding for existing substance abuse testing programs.

11999.25. (a) To be eligible for a grant pursuant to this division, a county shall have on file with the State Department of Alcohol and Drug Programs an approved plan for implementing the Substance Abuse and Crime Prevention Act of 2000.

(b) The county plan shall include a description of the process to be used for substance abuse treatment and substance abuse testing of probationers consistent with Sections 1210.1 and 1210.5, and substance abuse treatment and substance abuse testing of parolees consistent with Sections 3063.1 and 3063.2.

(c) The State Department of Alcohol and Drug Programs shall establish a fair and equitable distribution formula for allocating money to eligible counties.

SEC. 2. Section 1210 of the Penal Code is amended to read:

1210. Definitions



As used in Sections 1210.1 and 3063.1 of this code, and Division 10.8 (commencing with Section 11999.4) of the Health and Safety Code:

(a) The term “nonviolent drug possession offense” means the unlawful possession, use, or transportation for personal use of any controlled substance identified in Section 11054, 11055, 11056, 11057 or 11058 of the Health and Safety Code, or the offense of being under the influence of a controlled substance in violation of Section 11550 of the Health and Safety Code. The term “nonviolent drug possession offense” does not include the possession for sale, production, or manufacturing of any controlled substance and does not include violations of Section 4573.6 or 4573.8.

(b) The term “drug treatment program” or “drug treatment” means a state licensed and/or certified community drug treatment program, which may include one or more of the following: outpatient treatment, half-way house treatment, narcotic replacement therapy, drug education or prevention courses and/or limited inpatient or residential drug treatment as needed to address special detoxification or relapse situations or severe dependence. The term “drug treatment program” or “drug treatment” includes a drug treatment program operated under the direction of the Veterans Health Administration of the Department of Veterans Affairs or a program specified in Section 8001 ; such a program shall be eligible to provide drug treatment services without regard to the licensing or certification provisions required by this subdivision. The term “drug treatment program” or “drug treatment” does not include drug treatment programs offered in a prison or jail facility.

(c) The term “successful completion of treatment” means that a defendant who has had drug treatment imposed as a condition of probation has completed the prescribed course of drug treatment and, as a result, there is reasonable cause to believe that the defendant will not abuse controlled substances in the future.

(d) The term “misdemeanor not related to the use of drugs” means a misdemeanor that does not involve (1) the simple possession or use of drugs or drug paraphernalia, being present where drugs are used, or failure to register as a drug offender, or (2) any activity similar to those listed in paragraph (1).

SEC. 3. Section 1210.1 of the Penal Code is amended to read:

1210.1. Possession of Controlled Substances; Probation; Exceptions

(a) Notwithstanding any other provision of law, and except as provided in subdivision (b), any person convicted of a nonviolent drug possession offense shall receive probation. As a condition of probation the court shall require participation in and completion of an appropriate drug treatment program. The court may also impose, as a condition of



probation, participation in vocational training, family counseling, literacy training and/or community service. A court may not impose incarceration as an additional condition of probation. Aside from the limitations imposed in this subdivision, the trial court is not otherwise limited in the type of probation conditions it may impose. Probation shall be imposed by suspending the imposition of sentence.

In addition to any fine assessed under other provisions of law, the trial judge may require any person convicted of a nonviolent drug possession offense who is reasonably able to do so to contribute to the cost of his or her own placement in a drug treatment program.

(b) Subdivision (a) does not apply to either of the following:

(1) Any defendant who previously has been convicted of one or more serious or violent felonies in violation of subdivision (c) of Section 667.5 or Section 1192.7, unless the nonviolent drug possession offense occurred after a period of five years in which the defendant remained free of both prison custody and the commission of an offense that results in (A) a felony conviction other than a nonviolent drug possession offense, or (B) a misdemeanor conviction involving physical injury or the threat of physical injury to another person.

(2) Any defendant who, in addition to one or more nonviolent drug possession offenses, has been convicted in the same proceeding of a misdemeanor not related to the use of drugs or any felony.

(3) Any defendant who:

(A) While using a firearm, unlawfully possesses any amount of (i) a substance containing either cocaine base, cocaine, heroin, methamphetamine, or (ii) a liquid, nonliquid, plant substance, or hand-rolled cigarette, containing phencyclidine.

(B) While using a firearm, is unlawfully under the influence of cocaine base, cocaine, heroin, methamphetamine or phencyclidine.

(4) Any defendant who refuses drug treatment as a condition of probation.

(5) Any defendant who (A) has two separate convictions for nonviolent drug possession offenses, (B) has participated in two separate courses of drug treatment pursuant to subdivision (a), and (C) is found by the court, by clear and convincing evidence, to be unamenable to any and all forms of available drug treatment. Notwithstanding any other provision of law, the trial court shall sentence such defendants to 30 days in jail.

(c) Within seven days of an order imposing probation under subdivision (a), the probation department shall notify the drug treatment provider designated to provide drug treatment under subdivision (a). Within 30 days of receiving that notice, the treatment provider shall prepare a treatment plan and forward it to the probation department. On



a quarterly basis after the defendant begins the drug treatment program, the treatment provider shall prepare and forward a progress report on the individual probationer to the probation department.

(1) If at any point during the course of drug treatment the treatment provider notifies the probation department that the defendant is unamenable to the drug treatment being provided, but may be amenable to other drug treatments or related programs, the probation department may move the court to modify the terms of probation to ensure that the defendant receives the alternative drug treatment or program.

(2) If at any point during the course of drug treatment the treatment provider notifies the probation department that the defendant is unamenable to the drug treatment provided and all other forms of drug treatment programs pursuant to subdivision (b) of Section 1210, the probation department may move to revoke probation. At the revocation hearing, if it is proved that the defendant is unamenable to all drug treatment programs pursuant to subdivision (b) of Section 1210, the court may revoke probation.

(3) Drug treatment services provided by subdivision (a) as a required condition of probation may not exceed 12 months, provided, however, that additional aftercare services as a condition of probation may be required for up to six months.

(d) Dismissal of charges upon successful completion of drug treatment

(1) At any time after completion of drug treatment, a defendant may petition the sentencing court for dismissal of the charges. If the court finds that the defendant successfully completed drug treatment, and substantially complied with the conditions of probation, the conviction on which the probation was based shall be set aside and the court shall dismiss the indictment, complaint, or information against the defendant. In addition, except as provided in paragraphs (2) and (3), both the arrest and the conviction shall be deemed never to have occurred. Except as provided in paragraph (2) or (3), the defendant shall thereafter be released from all penalties and disabilities resulting from the offense of which he or she has been convicted.

(2) Dismissal of an indictment, complaint, or information pursuant to paragraph (1) does not permit a person to own, possess, or have in his or her custody or control any firearm capable of being concealed upon the person or prevent his or her conviction under Section 12021.

(3) Except as provided below, after an indictment, complaint, or information is dismissed pursuant to paragraph (1), the defendant may indicate in response to any question concerning his or her prior criminal record that he or she was not arrested or convicted for the offense. Except as provided below, a record pertaining to an arrest or conviction resulting



in successful completion of a drug treatment program under this section may not, without the defendant's consent, be used in any way that could result in the denial of any employment, benefit, license, or certificate.

Regardless of his or her successful completion of drug treatment, the arrest and conviction on which the probation was based may be recorded by the Department of Justice and disclosed in response to any peace officer application request or any law enforcement inquiry. Dismissal of an information, complaint, or indictment under this section does not relieve a defendant of the obligation to disclose the arrest and conviction in response to any direct question contained in any questionnaire or application for public office, for a position as a peace officer as defined in Section 830, for licensure by any state or local agency, for contracting with the California State Lottery, or for purposes of serving on a jury.

(e) Violation of probation

(1) If probation is revoked pursuant to the provisions of this subdivision, the defendant may be incarcerated pursuant to otherwise applicable law without regard to the provisions of this section.

(2) Non-drug-related probation violations

If a defendant receives probation under subdivision (a), and violates that probation either by being arrested for an offense that is not a nonviolent drug possession offense, or by violating a non-drug-related condition of probation, and the state moves to revoke probation, the court shall conduct a hearing to determine whether probation shall be revoked. The court may modify or revoke probation if the alleged violation is proved.

(3) Drug-related probation violations

(A) If a defendant receives probation under subdivision (a), and violates that probation either by committing a nonviolent drug possession offense, or a misdemeanor for simple possession or use of drugs or drug paraphernalia, being present where drugs are used, or failure to register as a drug offender, or any activity similar to those listed in paragraph (1) of subdivision (d) of Section 1210, or by violating a drug-related condition of probation, and the state moves to revoke probation, the court shall conduct a hearing to determine whether probation shall be revoked. The trial court shall revoke probation if the alleged probation violation is proved and the state proves by a preponderance of the evidence that the defendant poses a danger to the safety of others. If the court does not revoke probation, it may intensify or alter the drug treatment plan.

(B) If a defendant receives probation under subdivision (a), and for the second time violates that probation either by committing a nonviolent drug possession offense, or a misdemeanor for simple possession or use of drugs or drug paraphernalia, being present where



drugs are used, or failure to register as a drug offender, or any activity similar to those listed in paragraph (1) of subdivision (d) of Section 1210, or by violating a drug-related condition of probation, and the state moves for a second time to revoke probation, the court shall conduct a hearing to determine whether probation shall be revoked. The trial court shall revoke probation if the alleged probation violation is proved and the state proves by a preponderance of the evidence either that the defendant poses a danger to the safety of others or is unamenable to drug treatment. In determining whether a defendant is unamenable to drug treatment, the court may consider, to the extent relevant, whether the defendant (i) has committed a serious violation of rules at the drug treatment program, (ii) has repeatedly committed violations of program rules that inhibit the defendant's ability to function in the program, or (iii) has continually refused to participate in the program or asked to be removed from the program. If the court does not revoke probation, it may intensify or alter the drug treatment plan.

(C) If a defendant receives probation under subdivision (a), and for the third time violates that probation either by committing a nonviolent drug possession offense, or by violating a drug-related condition of probation, and the state moves for a third time to revoke probation, the court shall conduct a hearing to determine whether probation shall be revoked. If the alleged probation violation is proved, the defendant is not eligible for continued probation under subdivision (a).

(D) If a defendant on probation at the effective date of this act for a nonviolent drug possession offense violates that probation either by being arrested for a nonviolent drug possession offense, or a misdemeanor for simple possession or use of drugs or drug paraphernalia, being present where drugs are used, or failure to register as a drug offender, or any activity similar to those listed in paragraph (1) of subdivision (d) of Section 1210, or by violating a drug-related condition of probation, and the state moves to revoke probation, the court shall conduct a hearing to determine whether probation shall be revoked. The trial court shall revoke probation if the alleged probation violation is proved and the state proves by a preponderance of the evidence that the defendant poses a danger to the safety of others. If the court does not revoke probation, it may modify probation and impose as an additional condition participation in a drug treatment program.

(E) If a defendant on probation at the effective date of this act for a nonviolent drug possession offense violates that probation a second time either by being arrested for a nonviolent drug possession offense, or a misdemeanor for simple possession or use of drugs or drug paraphernalia, being present where drugs are used, or failure to register as a drug offender, or any activity similar to those listed in paragraph (1)



of subdivision (d) of Section 1210, or by violating a drug-related condition of probation, and the state moves for a second time to revoke probation, the court shall conduct a hearing to determine whether probation shall be revoked. The trial court shall revoke probation if the alleged probation violation is proved and the state proves by a preponderance of the evidence either that the defendant poses a danger to the safety of others or that the defendant is unamenable to drug treatment. If the court does not revoke probation, it may modify probation and impose as an additional condition participation in a drug treatment program.

(F) If a defendant on probation at the effective date of this act for a nonviolent drug offense violates that probation a third time either by being arrested for a nonviolent drug possession offense, or by violating a drug-related condition of probation, and the state moves for a third time to revoke probation, the court shall conduct a hearing to determine whether probation shall be revoked. If the alleged probation violation is proved, the defendant is not eligible for continued probation under subdivision (a).

(f) The term “drug-related condition of probation” shall include a probationer’s specific drug treatment regimen, employment, vocational training, educational programs, psychological counseling, and family counseling.

SEC. 4. Section 1210.5 is added to the Penal Code, to read:

1210.5. In a case where a person has been ordered to undergo drug treatment as a condition of probation, any court ordered drug testing shall be used as a treatment tool. In evaluating a probationer’s treatment program, results of any drug testing shall be given no greater weight than any other aspects of the probationer’s individual treatment program.

SEC. 5. Section 3063.1 of the Penal Code is amended to read:

3063.1. Possession of Controlled Substances; Parole; Exceptions

(a) Notwithstanding any other provision of law, and except as provided in subdivision (d), parole may not be suspended or revoked for commission of a nonviolent drug possession offense or for violating any drug-related condition of parole.

As an additional condition of parole for all such offenses or violations, the Parole Authority shall require participation in and completion of an appropriate drug treatment program. Vocational training, family counseling and literacy training may be imposed as additional parole conditions.

The Parole Authority may require any person on parole who commits a nonviolent drug possession offense or violates any drug-related condition of parole, and who is reasonably able to do so, to contribute to the cost of his or her own placement in a drug treatment program.



(b) Subdivision (a) does not apply to:

(1) Any parolee who has been convicted of one or more serious or violent felonies in violation of subdivision (c) of Section 667.5 or Section 1192.7.

(2) Any parolee who, while on parole, commits one or more nonviolent drug possession offenses and is found to have concurrently committed a misdemeanor not related to the use of drugs or any felony.

(3) Any parolee who refuses drug treatment as a condition of parole.

(c) Within seven days of a finding that the parolee has either committed a nonviolent drug possession offense or violated any drug-related condition of parole, the Parole Authority shall notify the treatment provider designated to provide drug treatment under subdivision (a). Within 30 days thereafter the treatment provider shall prepare an individualized drug treatment plan and forward it to the Parole Authority and to the California Department of Corrections Parole Division agent responsible for supervising the parolee. On a quarterly basis after the parolee begins drug treatment, the treatment provider shall prepare and forward a progress report on the individual parolee to these entities and individuals.

(1) If at any point during the course of drug treatment the treatment provider notifies the Parole Authority that the parolee is unamenable to the drug treatment provided, but amenable to other drug treatments or related programs, the Parole Authority may act to modify the terms of parole to ensure that the parolee receives the alternative drug treatment or program.

(2) If at any point during the course of drug treatment the treatment provider notifies the Parole Authority that the parolee is unamenable to the drug treatment provided and all other forms of drug treatment provided pursuant to subdivision (b) of Section 1210 and the amenability factors described in subparagraph (B) of paragraph (3) of subdivision (e) of Section 1210.1, the Parole Authority may act to revoke parole. At the revocation hearing, parole may be revoked if it is proved that the parolee is unamenable to all drug treatment.

(3) Drug treatment services provided by subdivision (a) as a required condition of parole may not exceed 12 months, provided, however, that additional aftercare services as a condition of parole may be required for up to six months.

(d) Violation of parole

(1) If parole is revoked pursuant to the provisions of this subdivision, the defendant may be incarcerated pursuant to otherwise applicable law without regard to the provisions of this section. Parole shall be revoked if the parole violation is proved and a preponderance of the evidence establishes that the parolee poses a danger to the safety of others.



(2) Non-drug-related parole violations

If a parolee receives drug treatment under subdivision (a), and during the course of drug treatment violates parole either by committing an offense other than a nonviolent drug possession offense, or by violating a non-drug-related condition of parole, and the Parole Authority acts to revoke parole, a hearing shall be conducted to determine whether parole shall be revoked.

Parole may be modified or revoked if the parole violation is proved.

(3) Drug-related parole violations

(A) If a parolee receives drug treatment under subdivision (a), and during the course of drug treatment violates parole either by committing a nonviolent drug possession offense, or a misdemeanor for simple possession or use of drugs or drug paraphernalia, being present where drugs are used, or failure to register as a drug offender, or any activity similar to those listed in paragraph (1) of subdivision (d) of Section 1210, or by violating a drug-related condition of parole, and the Parole Authority acts to revoke parole, a hearing shall be conducted to determine whether parole shall be revoked. Parole shall be revoked if the parole violation is proved and a preponderance of the evidence establishes that the parolee poses a danger to the safety of others. If parole is not revoked, the conditions of parole may be intensified to achieve the goals of drug treatment.

(B) If a parolee receives drug treatment under subdivision (a), and during the course of drug treatment for the second time violates that parole either by committing a nonviolent drug possession offense, or by violating a drug-related condition of parole, and the Parole Authority acts for a second time to revoke parole, a hearing shall be conducted to determine whether parole shall be revoked. If the alleged parole violation is proved, the parolee is not eligible for continued parole under any provision of this section and may be reincarcerated.

(C) If a parolee already on parole at the effective date of this act violates that parole either by committing a nonviolent drug possession offense, or a misdemeanor for simple possession or use of drugs or drug paraphernalia, being present where drugs are used, or failure to register as a drug offender, or any activity similar to those listed in paragraph (1) of subdivision (d) of Section 1210, or by violating a drug-related condition of parole, and the Parole Authority acts to revoke parole, a hearing shall be conducted to determine whether parole shall be revoked. Parole shall be revoked if the parole violation is proved and a preponderance of the evidence establishes that the parolee poses a danger to the safety of others. If parole is not revoked, the conditions of parole may be modified to include participation in a drug treatment program as provided in subdivision (a). This paragraph does not apply



to any parolee who at the effective date of this act has been convicted of one or more serious or violent felonies in violation of subdivision (c) of Section 667.5 or Section 1192.7.

(D) If a parolee already on parole at the effective date of this act violates that parole for the second time either by committing a nonviolent drug possession offense, or by violating a drug-related condition of parole, and the Parole Authority acts for a second time to revoke parole, a hearing shall be conducted to determine whether parole shall be revoked. If the alleged parole violation is proved, the parolee is not eligible for continued parole under any provision of this section and may be reincarcerated.

(e) The term “drug-related condition of parole” shall include a parolee’s specific drug treatment regimen, and, if ordered by the parole authority pursuant to this section, employment, vocational training, educational programs, psychological counseling, and family counseling.

SEC. 6. Section 3063.2 is added to the Penal Code, to read:

3063.2. In a case where a parolee had been ordered to undergo drug treatment as a condition of parole pursuant to Section 3063.1, any drug testing of the parolee shall be used as a treatment tool. In evaluating a parolee’s treatment program, results of any drug testing shall be given no greater weight than any other aspects of the parolee’s individual treatment program.

SEC. 7. The sum of eighteen million dollars (\$18,000,000) is hereby appropriated to the State Department of Drug and Alcohol Programs as follows:

(a) Eight million four hundred thousand dollars (\$8,400,000) from the Federal Substance Abuse Prevention and Treatment Block Grant for allocation to counties for expenditure during the 2001–02 fiscal year for drug testing and other purposes consistent with federal law.

(b) Nine million six hundred thousand dollars (\$9,600,000) from the General Fund for expenditure to implement Division 10.9 of the Health and Safety Code.

SEC. 8. If this act becomes effective prior to July 1, 2001, it shall become operative on July 1, 2001.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to preserve the public health by successfully implementing the Substance Abuse and Crime Prevention Act of 2000, funds for drug testing must be made available immediately.



SEC. 10. (a) Notwithstanding the provisions of the Administrative Procedure Act, as set forth in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the State Department of Alcohol and Drug Programs may, until June 30, 2002, implement the applicable provisions of Section 11999.25 of the Health and Safety Code by means of a letter to all county lead agencies or similar instructions from the Director of Alcohol and Drug Programs.

(b) (1) The Director of Alcohol and Drug Programs shall adopt regulations, as otherwise necessary, to implement the applicable provisions of Section 11999.25 of the Health and Safety Code, no later than July 1, 2002.

(2) Emergency regulations to implement the applicable provisions of this act may be adopted by the Director of Alcohol and Drug Programs in accordance with the Administrative Procedure Act.

(3) The initial adoption of emergency regulations and one readoption of the initial regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare.

(4) Initial emergency regulations and the first readoption of those emergency regulations shall be exempt from review by the Office of Administrative Law.

(5) The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and shall remain in effect for no more than 180 days.

