

AMENDED IN ASSEMBLY APRIL 23, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1432**

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**Introduced by Assembly Member Firebaugh  
(Principal coauthor: Assembly Member Richman)**

February 21, 2003

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An act to amend Sections 656 and 793 of, *and to add Sections 656.5 and 793.5 to*, the Penal Code, ~~and to amend Section 41400 of the Vehicle Code,~~ relating to former jeopardy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1432, as amended, Firebaugh. Former jeopardy.

The California and United States Constitutions provide that a person may not be put twice in jeopardy for the same offense, and existing law forbids the courts from construing the California Constitution to afford greater rights regarding jeopardy to accused persons than are required by the United States Constitution. Existing statutory law provides that no prosecution or indictment of an accused person may be brought when a charged act is within the jurisdiction of another state or country as well as this state, and the person has been acquitted or convicted of the same act in that other jurisdiction. ~~A separate statute makes it a defense to any prosecution brought in this state that the accused was acquitted or convicted in a prosecution founded on the same act or omission in another state or country with concurrent jurisdiction. Another statute makes it a defense to any Vehicle Code charge when a defendant has been acquitted or convicted in a prosecution by another state or by the federal government founded upon the act or omission for which the defendant is on trial.~~

~~This bill would make nonsubstantive changes to these statutory provisions.~~

*This bill would clarify the statutory provision by providing that a conviction or acquittal in a prosecution under the laws of another state or territory of the United States, the United States, or another country is a defense in a trial in California based upon the same act or omission. It would further provide that a person convicted in California of a crime based upon an act or omission for which he or she has been acquitted or convicted in another country shall be entitled to credit for any actual time served in custody in a penal institution in that country in relation to the act or omission.*

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 656 of the Penal Code is amended to  
2 read:

3 656. Whenever on the trial of an accused person it appears that  
4 upon a criminal prosecution under the laws of another state;  
5 ~~government, or country,~~ or territory of the United States based  
6 upon the act or omission in respect to which he or she is on trial,  
7 he or she has been acquitted or convicted, it is a sufficient defense.

8 SEC. 2. Section 656.5 is added to the Penal Code, to read:

9 656.5. Any person convicted of a crime based upon an act or  
10 omission for which he or she has been acquitted or convicted in  
11 another country shall be entitled to credit for any actual time  
12 served in custody in a penal institution in that country for the  
13 crime.

14 SEC. 3. Section 793 of the Penal Code is amended to read:

15 793. When an act charged as a public offense is within the  
16 jurisdiction of another state or ~~country~~ territory of the United  
17 States, as well as of this state, a conviction or acquittal thereof in  
18 ~~the former~~ that other state or territory is a bar to the prosecution  
19 or indictment in this state.

20 ~~SEC. 3. Section 41400 of the Vehicle Code is amended to~~  
21 ~~read:~~

22 ~~41400. Whenever any person is charged with a violation of~~  
23 ~~this code, it is a sufficient defense to such charge if it appears that~~  
24 ~~in a criminal prosecution in another state or by the federal~~



1 ~~government, based upon the act or omission in respect to which he~~  
2 ~~or she is on trial, he or she has been convicted or acquitted.~~

3 *SEC. 4. Section 793.5 is added to the Penal Code, to read:*

4 *793.5. Any person convicted of a crime based upon an act or*  
5 *omission for which he or she has been acquitted or convicted in*  
6 *another country shall be entitled to credit for any actual time*  
7 *served in custody in a penal institution in that country for the*  
8 *crime.*

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