

AMENDED IN SENATE JUNE 26, 2009

AMENDED IN ASSEMBLY APRIL 29, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 458

**Introduced by Assembly Member Cook
(~~Coauthor: Assembly Member Tom Berryhill~~)**

February 24, 2009

~~An act to amend Section 1324.1 of the Penal Code, relating to criminal procedure. An act to add Section 26708.7 to the Vehicle Code, relating to vehicles.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 458, as amended, Cook. ~~Criminal procedure: witness testimony. Vehicles: peace officer vehicles: window tinting or glazing.~~

Existing law prohibits a person from driving a motor vehicle with any object or material placed, displayed, installed, affixed, or applied upon the windshield or side or rear windows, with limited exceptions, including for window tinting or glazing that meets specified requirements. Federal law establishes motor vehicle safety standards for glazing material for use in motor vehicles and motor vehicle equipment.

This bill would exempt a vehicle operated by a peace officer and owned or leased by the peace officer's employer from California law prohibiting or limiting materials that may be placed, displayed, installed, affixed, or applied to the windshield or side or rear windows, commonly referred to as window tinting or glazing.

~~Existing law provides that in any misdemeanor proceeding in any court, if a person refuses to answer a question or produce evidence of~~

any other kind on the ground that he may be incriminated thereby, the person may agree in writing to testify voluntarily, subject to court approval of the written agreement, as specified.

This bill would instead provide a procedure for the district attorney to request the court, and for the court to hold a hearing, to compel that person to answer the question or produce the evidence, as specified.

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

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

1 SECTION 1. Section 26708.7 is added to the Vehicle Code, to
2 read:

3 26708.7. Notwithstanding any other law, a vehicle operated
4 by a peace officer, as defined in Section 830 of the Penal Code,
5 and owned or leased by the peace officer’s employer, is exempt
6 from California law, and regulations adopted pursuant thereto,
7 prohibiting or limiting material that may be placed, displayed,
8 installed, affixed, or applied to the windshield or side or rear
9 windows, commonly referred to as window tinting or glazing.

10 SECTION 1. Section 1324.1 of the Penal Code is amended to
11 read:

12 1324.1. In any misdemeanor proceeding in any court, if a
13 person refuses to answer a question or produce evidence of any
14 other kind on the ground that he or she may be incriminated
15 thereby, and if the district attorney of the county or any other
16 prosecuting agency in writing requests the court, in and for that
17 county, to order that person to answer the question or produce the
18 evidence, a judge shall set a time for hearing and order the person
19 to appear before the court and show cause, if any, why the question
20 should not be answered or the evidence produced. The court shall
21 order the question answered or the evidence produced unless it
22 finds that to do so would be clearly contrary to the public interest,
23 or could subject the witness to a criminal prosecution in another
24 jurisdiction, and that person shall comply with the order. After
25 complying, and if, but for this section, he or she would have been
26 privileged to withhold the answer given or the evidence produced
27 by him or her, no testimony or other information compelled under
28 the order or any information directly or indirectly derived from
29 the testimony or other information may be used against the witness

1 in any criminal case. But he or she may nevertheless be prosecuted
2 or subjected to penalty or forfeiture for any perjury, false swearing
3 or contempt committed in answering, or failing to answer, or in
4 producing, or failing to produce, evidence in accordance with the
5 order.

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