

Assembly Bill No. 2144

Passed the Assembly August 9, 2010

Chief Clerk of the Assembly

Passed the Senate August 5, 2010

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 15200, 15300, 15302, 15306, 15308, 15311, 15311.1, 15312, and 22526 of, and to amend, repeal, and add Sections 1803.5, 1808.7, and 41501 of, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL’S DIGEST

AB 2144, Gilmore. Commercial motor vehicles: driver compliance.

(1) Existing law authorizes a court to order a person issued a notice to appear for a traffic violation to attend a traffic violator school licensed under certain provisions of the Vehicle Code, in lieu of adjudicating the traffic offense, and with the consent of the defendant, or after conviction of a traffic offense. A court may order a continuance against a person who receives a notice to appear in court for a violation of a statute relating to the safe operation of a vehicle, in consideration for attendance at a licensed school for traffic violators, a licensed driving school, or any other court-approved program of driving instruction. After that attendance, the court may dismiss the complaint and the record of the Department of Motor Vehicles relating to this proceeding and dismissal of the complaint is confidential.

This bill would revise and recast these provisions and, instead, would authorize the court, after a deposit of bail and bail forfeiture, a plea of guilty or no contest, or a conviction, to order a continuance of the proceeding against a person who receives a notice to appear in court for a violation of a statute relating to safe operation of a vehicle, in consideration for completion of a program at a school for traffic violators and order that the conviction be held confidential. The bill would prohibit the record of certain convictions from being confidential under these provisions. The bill would require that no violation point count be assessed if the record of conviction is confidential, unless other specified conditions apply.

The bill would require that these provisions become operative on July 1, 2011.

(2) Existing law declares the intent of the Legislature to adopt those standards required of drivers by the Federal Highway Administration of the Department of Transportation, as set forth in the Commercial Motor Vehicle Safety Act of 1986 and to reduce or prevent commercial motor vehicle accidents, fatalities, and injuries by permitting drivers to hold only one license, disqualifying drivers for certain criminal offenses and serious traffic violations, and strengthening licensing and testing standards.

Existing law prohibits a driver of a commercial motor vehicle from operating a commercial motor vehicle for a period of one year if the driver is convicted of a first violation of, or for the rest of his or her life if convicted of more than one violation of, specified offenses.

This bill would update references to federal law and make technical, nonsubstantive changes to these provisions.

(3) Existing law prohibits a driver from operating a commercial motor vehicle for a period of 90 days, 180 days, one year, or 3 years if the person is convicted of a specified violation of an out-of-service order issued by an authorized employee of the Department of the California Highway Patrol or by a uniformed peace officer. A violation of these provisions is a crime.

This bill would increase the disqualification period of 90 days to 180 days, the 180-day period to 2 years, and the one-year period to 2 years. The bill would also expand this prohibition to include out-of-service orders issued by the Secretary of the United States Department of Transportation or a peace officer or commercial vehicle inspector of any state, any province of Canada, the federal government of the United States, or Mexico. By expanding the scope of an existing crime, the bill would create a state-mandated local program.

(4) Existing law prohibits a driver from operating a commercial vehicle for a period of 60 days or 120 days if the driver is convicted of a serious traffic violation involving a noncommercial motor vehicle resulting in the revocation, cancellation, or suspension of the driver's license and the offense occurs within 3 years of a separate offense of a serious traffic violation or within 3 years of 2 or more separate offenses of serious traffic violations, respectively, that resulted in convictions.

This bill would eliminate the requirement that the conviction of the offense resulted in the revocation, cancellation, or suspension of the driver's license.

(5) Existing law provides that a driver who is convicted of violating an out-of-service order is subject to a civil penalty of not less than \$1,100 nor more than \$2,750. Existing law also provides that an employer that knowingly allows or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order is, upon conviction, subject to a civil penalty of not less than \$2,750 nor more than \$11,000.

This bill would increase the penalty for the driver to not less than \$2,500 for a first conviction and to \$5,000 for a second or subsequent conviction. The bill would increase the upper limit of the penalty for an employer to not more than \$25,000.

(6) Existing law prohibits a driver of a vehicle from entering a railroad or rail transit crossing, notwithstanding any official traffic control device or signal indication to proceed, unless there is sufficient space on the other side of the railroad or rail transit crossing to accommodate the vehicle driven or there is sufficient undercarriage clearance to cross the intersection without obstructing the through passage of a railway vehicle, including, but not limited to, a train, trolley, or city transit vehicle.

This bill would make technical, substantive changes in the organization of these provisions and make a conforming change to a related provision.

(7) This bill would also include language in Section 41501 that the bill would add to the Vehicle Code, proposed by AB 2499, to become operative only if AB 2499 and this bill are chaptered and become effective on or before January 1, 2011, and this bill is chaptered last.

(8) 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.

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

SECTION 1. Section 1803.5 of the Vehicle Code is amended to read:

1803.5. (a) In accordance with Section 41501 or 42005, the clerk of a court or hearing officer, when a person who receives a notice to appear at a court or board proceeding for a violation of any statute relating to the safe operation of vehicles is granted a continuance of the proceeding in consideration for completion of a program at a school for traffic violators, a licensed driving school, or any other court-approved program of driving instruction, and which results in a dismissal of the complaint in consideration for that completion, shall prepare an abstract of the record of the court or board proceeding, certify the abstract to be true and correct, and cause the abstract to be forwarded to the department at its office at Sacramento within 10 days after the complaint is dismissed.

(b) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute that is enacted before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 1.5. Section 1803.5 is added to the Vehicle Code, to read:

1803.5. (a) In accordance with Section 41501 or 42005, the clerk of a court or hearing officer, when a person who receives a notice to appear at a court or board proceeding for a violation of any statute relating to the safe operation of vehicles is granted a continuance of the proceeding in consideration for completion of a program at a school for traffic violators, that results in a designation of the conviction as confidential in consideration for that completion, shall prepare an abstract of the record of the court or board proceeding that indicates that the person was convicted of the violation and ordered to complete a traffic violator program, certify the abstract to be true and correct, and cause the abstract to be forwarded to the department at its office at Sacramento within five days after receiving proof that the program was completed or the due date to which the proceeding was continued, whichever comes first.

(b) This section shall become operative on July 1, 2011.

SEC. 2. Section 1808.7 of the Vehicle Code is amended to read:

1808.7. (a) The record of the department relating to the first proceeding and dismissal under Section 1803.5 in any 18-month period for participation by a person in a licensed school for traffic violators, a licensed driving school, or any other court-approved program of driving instruction, is confidential, shall not be disclosed to any person, except a court, and shall be used only for statistical purposes by the department.

(b) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute that is enacted before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2.5. Section 1808.7 is added to the Vehicle Code, to read:

1808.7. (a) The record of the department relating to the first proceeding and conviction under Section 1803.5 in any 18-month period for completion of a traffic violator school program is confidential, shall not be disclosed to any person, except a court and as provided for in subdivision (b), and shall be used only for statistical purposes by the department. No violation point count shall be assessed pursuant to Section 12810 if the conviction is confidential.

(b) The record of a conviction described in subdivision (a) shall not be confidential if any of the following circumstances applies:

(1) The person convicted holds a commercial driver's license as defined by Section 15210.

(2) The person convicted holds a commercial driver's license in another state, in accordance with Part 383 of Title 49 of the Code of Federal Regulations.

(3) The violation occurred in a commercial motor vehicle, as defined in subdivision (b) of Section 15210.

(4) The conviction would result in a violation point count of more than one point pursuant to Section 12810.

(c) This section shall become operative on July 1, 2011.

SEC. 3. Section 15200 of the Vehicle Code is amended to read:

15200. It is the intent of the Legislature, in enacting this chapter, to adopt those standards required of drivers by the Federal Motor Carrier Safety Administration of the United States Department of Transportation, as set forth in the federal Motor Carrier Safety Improvement Act of 1999 (Public Law 106-159) and to reduce or prevent commercial motor vehicle accidents, fatalities, and injuries by permitting drivers to hold only one

license, disqualifying drivers for certain criminal offenses and serious traffic violations, and strengthening licensing and testing standards. This act is a remedial law and shall be liberally construed to promote the public health, safety and welfare. To the extent that this chapter conflicts with general driver licensing provisions, this chapter shall prevail. Where this chapter is silent, the general driver licensing provisions shall apply. It is the further intent of the Legislature that this program be fee supported, and that the department fully recoup its costs within four years of the program's enactment.

SEC. 4. Section 15300 of the Vehicle Code is amended to read:

15300. (a) A driver shall not operate a commercial motor vehicle for a period of one year if the driver is convicted of a first violation of any of the following:

(1) Subdivision (a), (b), or (c) of Section 23152 while operating a motor vehicle.

(2) Subdivision (d) of Section 23152.

(3) Subdivision (a) or (b) of Section 23153 while operating a motor vehicle.

(4) Subdivision (d) of Section 23153.

(5) Leaving the scene of an accident involving a motor vehicle operated by the driver.

(6) Using a motor vehicle to commit a felony, other than a felony described in Section 15304.

(7) Driving a commercial motor vehicle when the driver's commercial driver's license is revoked, suspended, or canceled based on the driver's operation of a commercial motor vehicle or when the driver is disqualified from operating a commercial motor vehicle based on the driver's operation of a commercial motor vehicle.

(8) Causing a fatality involving conduct defined pursuant to Section 191.5 of the Penal Code or subdivision (c) of Section 192 of the Penal Code.

(9) While operating a motor vehicle, refuses to submit to, or fails to complete, a chemical test or tests in violation of Section 23612.

(10) A violation of Section 2800.1, 2800.2, or 2800.3 that involves a commercial motor vehicle.

(b) If a violation listed in subdivision (a), or a violation listed in paragraph (2) of subdivision (a) of Section 13350 or Section

13352 or 13357, occurred while transporting a hazardous material, the period specified in subdivision (a) shall be three years.

SEC. 5. Section 15302 of the Vehicle Code is amended to read:

15302. A driver shall not operate a commercial motor vehicle for the rest of his or her life if convicted of more than one violation of any of the following:

(a) Subdivision (a), (b), or (c) of Section 23152 while operating a motor vehicle.

(b) Subdivision (d) of Section 23152.

(c) Subdivision (a) or (b) of Section 23153 while operating a motor vehicle.

(d) Subdivision (d) of Section 23153.

(e) Leaving the scene of an accident involving a motor vehicle operated by the driver.

(f) Using a motor vehicle to commit a felony, other than a felony described in Section 15304.

(g) Driving a commercial motor vehicle when the driver's commercial driver's license is revoked, suspended, or canceled based on the driver's operation of a commercial motor vehicle or when the driver is disqualified from operating a commercial motor vehicle based on the driver's operation of a commercial motor vehicle.

(h) Causing a fatality involving conduct defined pursuant to Section 191.5 of the Penal Code or in subdivision (c) of Section 192 of the Penal Code.

(i) While operating a motor vehicle, refuses to submit to, or fails to complete, a chemical test or tests in violation of Section 23612.

(j) A violation of Section 2800.1, 2800.2, or 2800.3 that involves a commercial motor vehicle.

(k) Any combination of the above violations or a violation listed in paragraph (2) of subdivision (a) of Section 13350 or Section 13352 or 13357 that occurred while transporting a hazardous material.

SEC. 6. Section 15306 of the Vehicle Code is amended to read:

15306. A driver shall not operate a commercial motor vehicle for a period of 60 days if the person is convicted of a serious traffic violation involving a commercial or a noncommercial motor vehicle and the offense occurred within three years of a separate offense of a serious traffic violation that resulted in a conviction.

SEC. 7. Section 15308 of the Vehicle Code is amended to read:

15308. (a) A driver shall not operate a commercial motor vehicle for a period of 120 days if the person is convicted of a serious traffic violation involving a commercial or noncommercial motor vehicle and the offense occurred within three years of two or more separate offenses of serious traffic violations that resulted in convictions.

(b) Notwithstanding Section 13366.5, the time period under subdivision (a) shall not commence until all existing suspensions or revocations of the commercial driving privilege have ended.

SEC. 8. Section 15311 of the Vehicle Code is amended to read:

15311. (a) A driver shall not operate a commercial motor vehicle for a period of 180 days if the person is convicted of a first violation of an out-of-service order under subdivision (b), (c), or (d) of Section 2800.

(b) A driver shall not operate a commercial motor vehicle for a period of two years if the person is convicted of violating an out-of-service order under subdivision (b), (c), or (d) of Section 2800 while transporting hazardous materials required to be placarded or while operating a vehicle designed to transport 16 or more passengers, including the driver.

(c) A driver shall not operate a commercial motor vehicle for a period of two years if the person is convicted of a second violation of an out-of-service order under subdivision (b), (c), or (d) of Section 2800 during any 10-year period, arising from separate incidents.

(d) A driver shall not operate a commercial motor vehicle for a period of three years if the person is convicted of a second violation of an out-of-service order under subdivision (b), (c), or (d) of Section 2800 while transporting hazardous materials that are required to be placarded or while operating a vehicle designed to transport 16 or more passengers, including the driver.

(e) In addition to the disqualification period required in subdivision (a), (b), (c), or (d), a driver who is convicted of violating an out-of-service order under subdivision (b) of Section 2800 is subject to a civil penalty of not less than two thousand five hundred dollars (\$2,500) for a first conviction, and a civil penalty of five thousand dollars (\$5,000) for a second or subsequent conviction.

(f) A driver shall not operate a commercial motor vehicle for a period of three years if the person is convicted of a third or subsequent violation of an out-of-service order under subdivision (b), (c), or (d) of Section 2800 during any 10-year period, arising from separate incidents.

SEC. 9. Section 15311.1 of the Vehicle Code is amended to read:

15311.1. An employer that knowingly allows or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order is, upon conviction, subject to a civil penalty of not less than two thousand seven hundred fifty dollars (\$2,750) nor more than twenty-five thousand dollars (\$25,000).

SEC. 10. Section 15312 of the Vehicle Code is amended to read:

15312. A driver may not operate a commercial motor vehicle for the following periods:

(a) Not less than 60 days if that person is convicted of a violation of subdivision (a) of Section 2800, or Section 21462, 22451, or 22452, or subdivision (c) or (d) of Section 22526, involving a commercial motor vehicle and the violation occurred at a railroad-highway crossing.

(b) Not less than 120 days if that person is convicted of a violation of subdivision (a) of Section 2800, or Section 21462, 22451, or 22452, or subdivision (c) or (d) of Section 22526, involving a commercial motor vehicle, and that violation occurred at a railroad-highway crossing, during any three-year period of a separate, prior offense of a railroad-highway grade crossing violation, that resulted in a conviction.

(c) Not less than one year if that person is convicted of a violation of subdivision (a) of Section 2800, or Section 21462, 22451, or 22452, or subdivision (c) or (d) of Section 22526, involving a commercial motor vehicle, and that violation occurred at a railroad-highway crossing, at a railroad-highway grade crossing, during any three-year period of two or more prior offenses of a railroad-highway grade crossing violation, that resulted in convictions.

SEC. 11. Section 22526 of the Vehicle Code is amended to read:

22526. (a) Notwithstanding any official traffic control signal indication to proceed, a driver of a vehicle shall not enter an

intersection or marked crosswalk unless there is sufficient space on the other side of the intersection or marked crosswalk to accommodate the vehicle driven without obstructing the through passage of vehicles from either side.

(b) A driver of a vehicle which is making a turn at an intersection who is facing a steady circular yellow or yellow arrow signal shall not enter the intersection or marked crosswalk unless there is sufficient space on the other side of the intersection or marked crosswalk to accommodate the vehicle driven without obstructing the through passage of vehicles from either side.

(c) A driver of a vehicle shall not enter a railroad or rail transit crossing, notwithstanding any official traffic control device or signal indication to proceed, unless there is sufficient undercarriage clearance to cross the intersection without obstructing the through passage of a railway vehicle, including, but not limited to, a train, trolley, or city transit vehicle.

(d) A driver of a vehicle shall not enter a railroad or rail transit crossing, notwithstanding any official traffic control device or signal indication to proceed, unless there is sufficient space on the other side of the railroad or rail transit crossing to accommodate the vehicle driven and any railway vehicle, including, but not limited to, a train, trolley, or city transit vehicle.

(e) A local authority may post appropriate signs at the entrance to intersections indicating the prohibition in subdivisions (a), (b), and (c).

(f) A violation of this section is not a violation of a law relating to the safe operation of vehicles and is the following:

(1) A stopping violation when a notice to appear has been issued by a peace officer described in Section 830.1, 830.2, or 830.33 of the Penal Code.

(2) A parking violation when a notice of parking violation is issued by a person, other than a peace officer described in paragraph (1), who is authorized to enforce parking statutes and regulations.

(g) This section shall be known and may be cited as the Anti-Gridlock Act of 1987.

SEC. 12. Section 41501 of the Vehicle Code is amended to read:

41501. (a) The court may order a continuance of a proceeding against a person, who receives a notice to appear in court for a

violation of a statute relating to the safe operation of a vehicle, in consideration for attendance at a licensed school for traffic violators, a licensed driving school, or any other court-approved program of driving instruction, and, after that attendance and pursuant to Section 1803.5 or 42005, the court may dismiss the complaint under the following conditions:

(1) If the offense is alleged to have been committed within 12 months of another offense that was dismissed under this section, the court may order the continuance and, after the attendance, dismiss the complaint. The court may order attendance at a licensed school for traffic violators that offers a program of at least 12 hours of instruction.

(2) If the offense is not alleged to have occurred within 18 months of another offense that was dismissed under this section, the court may order the continuance and, after the attendance, dismiss the complaint if the attendance is at any of the types of schools or programs that the court directed pursuant to Section 42005 at the time of ordering the continuance.

(b) Subdivision (a) does not apply to a person who receives a notice to appear as to, or is otherwise charged with, a violation of an offense described in subdivisions (a) to (e), inclusive, of Section 12810.

(c) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 12.5. Section 41501 is added to the Vehicle Code, to read:

41501. (a) After a deposit of bail and bail forfeiture, a plea of guilty or no contest, or a conviction, the court may order a continuance of a proceeding against a person, who receives a notice to appear in court for a violation of a statute relating to the safe operation of a vehicle, in consideration for successful completion of a course of instruction at a licensed school for traffic violators, a licensed driving school, or any other court-approved program of driving instruction, and pursuant to Section 1803.5 or 42005, the court may order that the conviction be held confidential by the department according to Section 1808.7.

(b) Subdivision (a) does not apply to a person who receives a notice to appear as to, or is otherwise charged with, a violation of

an offense described in subdivisions (a) to (e), inclusive, of Section 12810.

(c) This section shall become operative on July 1, 2011.

SEC. 12.7. Section 41501 is added to the Vehicle Code, to read:

41501. (a) After a deposit of bail and bail forfeiture, a plea of guilty or no contest, or a conviction, the court may order a continuance of a proceeding against a person, who receives a notice to appear in court for a violation of a statute relating to the safe operation of a vehicle, in consideration for successful completion of a course of instruction at a licensed school for traffic violators and pursuant to Section 1803.5 or 42005, the court may order that the conviction be held confidential by the department according to Section 1808.7. The court shall notify a person that only one conviction within 18 months will be held confidential.

(b) Subdivision (a) does not apply to a person who receives a notice to appear as to, or is otherwise charged with, a violation of an offense described in subdivisions (a) to (e), inclusive, of Section 12810.

(c) This section shall become operative on July 1, 2011.

SEC. 13. Section 12.7 of this bill adds Section 41501 to the Vehicle Code and includes language proposed by this bill and AB 2499. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2011, (2) each bill adds Section 41501 to the Vehicle Code, and (3) this bill is enacted after AB 2499, in which case Section 12.5 of this bill shall not become operative.

SEC. 14. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2010

Governor