

AMENDED IN ASSEMBLY MAY 27, 2011  
AMENDED IN ASSEMBLY MARCH 25, 2011  
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 877**

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**Introduced by Assembly Member Skinner**

February 17, 2011

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An act to amend Section 41500 of, ~~and to add Section 41500.5 to,~~ the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 877, as amended, Skinner. Vehicles: nonfelony offenses and infractions: removal of records.

Existing law requires that a person not be subject to prosecution for any nonfelony offense arising out of the operation of a motor vehicle, or a violation of the Vehicle Code as a pedestrian, that is pending against him or her at the time of his or her commitment to the custody of the Secretary of the Department of Corrections and Rehabilitation or the Division of Juvenile Facilities.

Existing law requires, notwithstanding any other law to the contrary, that a driver's license shall not be suspended or revoked or the issuance or renewal of that license be refused as a result of a pending nonfelony offense occurring prior to the time a person was committed to the custody of the Secretary of the Department of Corrections and Rehabilitation or the Division of Juvenile Facilities or as a result of a notice received by the Department of Motor Vehicles from a court, a magistrate, or a clerk of that court if the offense that gave rise to the notice occurred prior to the time that the person was committed to the

custody of the Secretary of the Department of Corrections and Rehabilitation or the Division of Juvenile Facilities.

Existing law also requires the Department of Motor Vehicles to remove from its records any notice received by it from a court, a magistrate, or a clerk of that court upon receipt of satisfactory evidence that a person was committed to the custody of the Secretary of the Department of Corrections and Rehabilitation or the Division of Juvenile Facilities after the offense that gave rise to the notice occurred.

This bill would also apply these provisions and the exemption from prosecution to ~~(1) a person upon completion of his or her sentence of 6 months or longer in a county jail or a drug treatment center or other alternative to incarceration if the person's failure to complete the sentence would result in reincarceration and (2) a person who has been incarcerated for 90 or more days in any consecutive 12-month period subsequent to the date of the offense or violation serving 90 days or longer in a consecutive 12-month period in a county jail or other county correctional facility, court or county rehabilitation facility, or involuntary in home detention.~~

~~The bill would provide that eligible incarcerated persons and persons previously incarcerated who are eligible under these provisions may request relief directly from the Department of Motor Vehicles or the court. The bill would require a court that receives a valid request to search its records for eligible pending matters and dispose of each eligible nonfelony offense pursuant to these provisions. The bill would also require the court, within 15 days of receipt of the request, to notify the department of the request and the department to remove from its records any notice received by it from any county in the state.~~

~~The bill would require the Judicial Council to adopt forms and instructions for use by persons eligible for relief under these provisions and would provide that the use of the forms is recommended, rather than mandatory.~~

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

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

- 1 SECTION 1. Section 41500 of the Vehicle Code is amended
- 2 to read:
- 3 41500. (a) A person shall not be subject to prosecution for any
- 4 nonfelony offense arising out of the operation of a motor vehicle

1 or a violation of this code as a pedestrian that is pending against  
2 him or her at the time of his or her commitment to the custody of  
3 the Secretary of the Department of Corrections and Rehabilitation  
4 or the Division of Juvenile Facilities, or upon ~~completion of a~~  
5 ~~sentence of six months or longer in a county jail or a drug treatment~~  
6 ~~center or other alternative to incarceration if the person's failure~~  
7 ~~to complete the sentence would result in reincarceration.~~ *-serving*  
8 *90 days or longer in a consecutive 12-month period in a county*  
9 *jail or other county correctional facility, court or county*  
10 *rehabilitation facility, or involuntary in home detention.*

11 (b) Notwithstanding any other law to the contrary, a driver's  
12 license shall not be suspended or revoked or the issuance or renewal  
13 of that license be refused as a result of a pending nonfelony offense  
14 occurring prior to the time a person was committed to the custody  
15 of the Secretary of the Department of Corrections and  
16 Rehabilitation ~~or, the Division of Juvenile Facilities or,~~ *or a county*  
17 *jail or other county correctional facility, court or county*  
18 *rehabilitation facility, or involuntary in home detention* as a result  
19 of a notice received by the department pursuant to subdivision (a)  
20 of Section 40509 if the offense that gave rise to the notice occurred  
21 prior to the time the person was committed to the custody of the  
22 Secretary of the Department of Corrections and Rehabilitation ~~or,~~  
23 ~~the Division of Juvenile Facilities,~~ *or a county jail or other county*  
24 *correctional facility, court or county rehabilitation facility, or*  
25 *involuntary in home detention.*

26 (c) The department shall remove from its records any notice  
27 received by it pursuant to subdivision (a) of Section 40509 upon  
28 receipt of satisfactory evidence that a person was committed to  
29 the custody of the Secretary of the Department of Corrections and  
30 Rehabilitation ~~or, the Division of Juvenile Facilities,~~ *or a county*  
31 *jail or other county correctional facility, court or county*  
32 *rehabilitation facility, or involuntary in home detention* after the  
33 offense that gave rise to the notice occurred.

34 (d) This section does not apply to a nonfelony offense if the  
35 department is required by this code to immediately revoke or  
36 suspend the privilege of a person to drive a motor vehicle upon  
37 receipt of a duly certified abstract of the record of a court showing  
38 that the person has been convicted of that nonfelony offense.

1 (e) Subdivision (a), (b), or (c) does not apply to an offense  
2 committed by a person while he is temporarily released from  
3 custody pursuant to law or while he is on parole.

4 (f) Subdivision (a), (b), or (c) does not apply if the pending  
5 offense is a violation of Section 23103, 23152, or 23153.

6 ~~(g) Eligible incarcerated persons and persons previously  
7 incarcerated who are eligible under this section may request relief  
8 directly from the department or the court. A court that receives a  
9 valid request shall search its records for eligible pending matters  
10 and dispose of each eligible nonfelony offense pursuant to this  
11 section. The court shall, within 15 days of receipt of the request,  
12 notify the department of the request and the department shall  
13 remove from its records any notice received by it pursuant to  
14 subdivision (a) of Section 40509 from any county in the state.~~

15 ~~(h) The Judicial Council shall adopt forms and instructions for  
16 use by persons eligible for relief under this section. Use of the  
17 forms is recommended, rather than mandatory.~~

18 ~~SEC. 2. Section 41500.5 is added to the Vehicle Code, to read:~~

19 ~~41500.5. (a) A person shall not be subject to prosecution for  
20 any nonfelony offense arising out of the operation of a motor  
21 vehicle or a violation of this code as a pedestrian that is pending  
22 against him or her once he or she has been incarcerated for 90 or  
23 more days in any consecutive 12-month period subsequent to the  
24 date of the offense or violation.~~

25 ~~(b) Notwithstanding any other law to the contrary, a driver's  
26 license shall not be suspended or revoked or the issuance or renewal  
27 of that license be refused as a result of a pending infraction  
28 occurring prior to the 90 or more days in any consecutive 12-month  
29 period of incarceration or as a result of a notice received by the  
30 department pursuant to subdivision (a) of Section 40509 if the  
31 offense that gave rise to the notice occurred prior to the  
32 incarceration period of 90 or more days in any consecutive  
33 12-month period.~~

34 ~~(c) The department shall remove from its records any notice  
35 received by it pursuant to subdivision (a) of Section 40509 upon  
36 receipt of satisfactory evidence that a person was incarcerated in  
37 any correctional institution for a period of 90 or more days in a  
38 consecutive 12-month period.~~

39 ~~(d) This section shall not apply to any nonfelony offense wherein  
40 the department is required by this code to immediately revoke or~~

1 suspend the privilege of any person to drive a motor vehicle upon  
2 receipt of a duly certified abstract of the record of any court  
3 showing that the person has been convicted of that nonfelony  
4 offense.

5 (e) Eligible incarcerated persons and persons previously  
6 incarcerated who are eligible under this section may request relief  
7 directly from the department or the court. A court that receives a  
8 valid request shall search its records for eligible pending matters  
9 and dispose of each eligible nonfelony offense pursuant to this  
10 section. The court shall, within 15 days of receipt of the request,  
11 notify the department of the request and the department shall  
12 expunge from its records any notice received by it pursuant to  
13 subdivision (a) of Section 40509 from any county in the state.

14 (f) The Judicial Council shall adopt forms and instructions for  
15 use by persons eligible for relief under this section. Use of the  
16 forms is recommended, rather than mandatory.

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