

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1389**

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**Introduced by Assembly Member Allen**

February 18, 2011

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~~An act to amend 12800 of the Vehicle Code, relating to vehicles. An act to amend Section 2814.1 of, and to add Section 2814.2 to, the Vehicle Code, relating to vehicles.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1389, as amended, Allen. Vehicles: ~~driver's licenses. sobriety checkpoints: impoundment.~~

*Existing law authorizes a city or a county to establish a sobriety checkpoint program in highways under its jurisdiction to check for violations of driving-under-the-influence (DUI) offenses and authorizes the board of supervisors of a county to establish, by ordinance, a combined vehicle inspection and sobriety checkpoint program to check for violations of motor vehicle exhaust standards in addition to DUI offenses.*

*Existing law authorizes a peace officer, whenever the peace officer determines, among other things, that a person was driving a vehicle (1) without ever having been issued a driver's license, to immediately arrest that person and cause the removal and seizure of his or her vehicle for an impoundment period of 30 days, or (2) if the person is currently without a valid driver's license, to remove the vehicle for a shorter period of time upon issuance of a notice to appear if the registered owner or the registered owner's agent presents a currently valid driver's license and proof of current vehicle registration, or upon order of the court.*

*This bill would authorize the Department of the California Highway Patrol, and a city, county, or city and county, by ordinance or resolution, to establish a sobriety checkpoint program on highways within their respective jurisdictions to identify drivers who are in violation of specified DUI offenses. The bill would require that the program be conducted by the local governmental agency or department with the primary responsibility for traffic law enforcement.*

*The bill would require that the selection of the site of the checkpoint and the procedures for a checkpoint operation be determined by supervisory law enforcement personnel and that the law enforcement agency employ a neutral methodology for determining which vehicles to stop at the checkpoint or that all vehicles that drive through the checkpoint be stopped. The bill would also require a law enforcement agency to ensure that there are proper lighting, warning signs and signals, and clearly identifiable official vehicles, and uniformed personnel to minimize the risk to motorists and their passengers and to only operate a checkpoint when traffic volume allows for the safe operation of the program.*

*The bill would, notwithstanding other provisions of law, require that a peace officer or any other authorized person not cause the impoundment of a vehicle at a sobriety checkpoint, established pursuant to these provisions or any other law, unless at least one of a number of specified conditions applies. The bill would delete the county board of supervisors authority to conduct a combined vehicle inspection and sobriety checkpoint program. The bill would require a law enforcement agency that conducts a sobriety checkpoint program to provide advance notice of the checkpoint location to the public within a minimum of 48 hours of the checkpoint operation.*

*The bill would require that a driver who does not wish to submit to the checkpoint not be compelled to drive through the checkpoint. The bill would require the law enforcement agency conducting the checkpoint to post signs announcing the checkpoint sufficiently in advance of the location of the checkpoint to permit motorists to not enter the location and to ensure that there is a clear and safe way to turn away from the checkpoint for those motorists who choose not to drive through the checkpoint. The bill would prohibit a law enforcement agency from stopping a motorist who chooses to avoid the checkpoint.*

~~Existing law requires every application for an original or a renewal of a driver's license to contain specified information, including the~~

applicant's true full name, age, sex, mailing address, residence address, and social security account number.

~~This bill would make a technical, nonsubstantive change to these provisions:~~

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 2814.1 of the Vehicle Code is amended*  
2 *to read:*

3     2814.1. (a) A board of supervisors of a county may, by  
4 ordinance, establish, on highways under its jurisdiction, a ~~combined~~  
5 vehicle inspection and sobriety checkpoint program to check for  
6 violations of Sections 27153 and 27153.5 ~~and to identify drivers~~  
7 ~~who are in violation of Section 23140 or 23152.~~ The program shall  
8 be conducted by the local agency or department with the primary  
9 responsibility for traffic law enforcement.

10    (b) A driver of a motor vehicle shall stop and submit to an  
11 inspection conducted under subdivision (a) when signs and displays  
12 are posted requiring that stop.

13    (c) A county that elects to conduct the ~~combined~~ program  
14 described under subdivision (a) may fund that program through  
15 fine proceeds deposited with the county under Section 1463.15 of  
16 the Penal Code.

17     *SEC. 2. Section 2814.2 is added to the Vehicle Code, to read:*

18     2814.2. (a) *The Department of the California Highway Patrol*  
19 *may, and the governing body of a city, county, or city and county*  
20 *may adopt an ordinance or resolution to, establish, on highways,*  
21 *roads, or streets under its jurisdiction, a sobriety checkpoint*  
22 *program to identify drivers who are in violation of Section 23140*  
23 *or 23152. The program shall be conducted by the local*  
24 *governmental agency or department with the primary responsibility*  
25 *for traffic law enforcement.*

26     (b) *The selection of the site of the checkpoint and the procedures*  
27 *for a checkpoint operation, including, but not limited to, time and*  
28 *location shall be determined by supervisory law enforcement*  
29 *personnel.*

30     (1) *The law enforcement agency that conducts the checkpoint*  
31 *shall employ a neutral methodology for determining which vehicles*

1 *to stop at the checkpoint or may stop all vehicles that drive through*  
2 *the checkpoint.*

3 *(2) The law enforcement agency shall ensure that there are*  
4 *proper lighting, warning signs and signals, and clearly identifiable*  
5 *official vehicles, and uniformed personnel to minimize the risk to*  
6 *motorists and their passengers and shall only operate a checkpoint*  
7 *when traffic volume allows for the safe operation of the program.*

8 *(3) The location of the checkpoint shall be based on a location*  
9 *that has a high incidence of arrests under Section 23140 or 23152,*  
10 *or a high volume of driving under the influence (DUI) related*  
11 *accidents, and shall be determined by supervisory officers of the*  
12 *law enforcement agency conducting the sobriety checkpoint.*

13 *(4) The law enforcement agency shall conduct the checkpoint*  
14 *after dusk or at a time and for a duration that are reasonable and*  
15 *effective to the objective of deterring DUI offenses.*

16 *(c) A driver of a motor vehicle who elects to drive through the*  
17 *checkpoint shall stop and submit to an inspection conducted under*  
18 *subdivision (a) when signs and displays are posted requiring that*  
19 *stop.*

20 *(d) Notwithstanding Section 14602.6, Section 14607.6, or*  
21 *subdivision (p) of Section 22651, a peace officer or any other*  
22 *authorized person shall not cause the impoundment of a vehicle*  
23 *at a sobriety checkpoint established pursuant to this section or*  
24 *any other law, unless at least one of the following applies:*

25 *(1) The driver of the vehicle is suspected of driving in violation*  
26 *of Section 14601, 14601.2, 14601.3, 14601.5, 23140, or 23152.*

27 *(2) The vehicle is subject to impoundment pursuant to Section*  
28 *14602.7.*

29 *(3) There is probable cause to believe that the vehicle was used*  
30 *as the means of committing a public offense, other than a violation*  
31 *of Section 12500 or 14604.*

32 *(4) There is probable cause to believe that the vehicle is itself*  
33 *evidence that tends to show that a crime has been committed or*  
34 *that the vehicle contains evidence, that cannot readily be removed,*  
35 *that tends to show that a crime has been committed, other than a*  
36 *violation of Section 12500 or 14604.*

37 *(5) The driver of the vehicle is not driving with a valid driver's*  
38 *license and none of the following apply:*

39 *(A) The driver is able to obtain a validly licensed driver to drive*  
40 *the vehicle.*

1 (B) Notwithstanding Sections 12500 and 16020, the driver is  
2 able to park or remove the vehicle in a manner that does not  
3 impede traffic or threaten public safety until a validly licensed  
4 driver can retrieve the vehicle.

5 (C) A peace officer, or a similarly authorized traffic enforcement  
6 officer, is able to readily and lawfully remove the vehicle to a place  
7 that does not impede traffic or threaten public safety.

8 (e) The state or local governmental agency that established or  
9 conducted the checkpoint pursuant to subdivision (a) shall not be  
10 liable for any claims related to the parking or removal of the  
11 vehicle as described in subparagraph (B) or (C) of paragraph (5)  
12 of subdivision (d).

13 (f) The law enforcement agency that conducts a sobriety  
14 checkpoint program shall provide advance notice of the checkpoint  
15 location to the public within a minimum of 48 hours of the  
16 checkpoint operation.

17 (g) A driver who does not wish to submit to the checkpoint shall  
18 not be compelled to drive through the checkpoint. The law  
19 enforcement agency conducting the checkpoint shall post signs  
20 announcing the checkpoint sufficiently in advance of the location  
21 of the checkpoint to permit motorists to not enter the location and  
22 shall ensure that there is a clear and safe way to turn away from  
23 the checkpoint for those motorists who choose not to drive through  
24 the checkpoint. The law enforcement agency shall not stop a  
25 motorist that chooses to avoid the checkpoint.

26 (h) A law enforcement agency shall not conduct a combined  
27 sobriety checkpoint and vehicle inspection program.

28 SECTION 1. ~~Section 12800 of the Vehicle Code is amended~~  
29 ~~to read:~~

30 ~~12800. An application for an original or a renewal of a driver's~~  
31 ~~license shall contain all of the following information:~~

32 ~~(a) The applicant's true full name, age, sex, mailing address,~~  
33 ~~residence address, and social security account number.~~

34 ~~(b) A brief description of the applicant for the purpose of~~  
35 ~~identification.~~

36 ~~(c) A legible print of the thumb or finger of the applicant.~~

37 ~~(d) The type of motor vehicle or combination of vehicles the~~  
38 ~~applicant desires to operate.~~

39 ~~(e) Whether the applicant has ever previously been licensed as~~  
40 ~~a driver and, if so, when and in what state or country and whether~~

1 or not the license has been suspended or revoked and, if so, the  
2 date of and reason for the suspension or revocation.

3 (f) Whether the applicant has ever previously been refused a  
4 driver's license in this state and, if so, the date of and the reason  
5 for the refusal.

6 (g) Whether the applicant, within the last three years, has  
7 experienced, on one or more occasions, either a lapse of  
8 consciousness or an episode of marked confusion caused by a  
9 condition that may bring about recurrent lapses, or whether the  
10 applicant has a disease, disorder, or disability that affects his or  
11 her ability to exercise reasonable and ordinary control in operating  
12 a motor vehicle upon a highway.

13 (h) Whether the applicant understands traffic signs and signals.

14 (i) Whether the applicant has ever previously been issued an  
15 identification card by the department.

16 (j) Any other information that is necessary to enable the  
17 department to determine whether the applicant is entitled to a  
18 license under this code.