

**ASSEMBLY BILL**

**No. 2871**

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**Introduced by Assembly Member Obernolte**

February 19, 2016

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An act to amend Section 40902 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2871, as introduced, Obernolte. Trials by declaration.

Existing law requires the courts to provide, by rule, that a defendant may elect to have a trial by written declaration upon any alleged infraction involving a violation of a state statute or a local ordinance relating to vehicles, except as specified. Existing law requires the defendant to be granted a trial de novo if he or she is dissatisfied with a decision of the court in a proceeding pursuant to those provisions.

This bill would delete the requirement that a defendant be granted a trial de novo under the above circumstances.

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 40902 of the Vehicle Code is amended  
2 to read:  
3 40902. (a) (1) ~~The court, pursuant to this section, shall, by~~  
4 ~~rule, provide~~ Pursuant to this section, the court shall provide, by  
5 rule, that the defendant may elect to have a trial by written  
6 declaration upon any alleged infraction, as charged by the citing  
7 officer, involving a violation of this code or ~~any~~ a local ordinance

1 adopted pursuant to this code, other than an infraction cited  
2 pursuant to Article 2 (commencing with Section 23152) of Chapter  
3 12 of Division 11.

4 (2) The Judicial Council may adopt rules and forms governing  
5 trials by declaration in accordance with this section. Any rule or  
6 form adopted by the Judicial Council pursuant to this paragraph  
7 shall supersede any local rule of a court adopted pursuant to  
8 paragraph (1).

9 (b) If the defendant elects to have a trial by written declaration,  
10 the defendant shall, at the time of submitting that declaration,  
11 submit bail in the amount established in the uniform traffic penalty  
12 schedule pursuant to Section 40310. If the defendant is found not  
13 guilty or if the charges are otherwise dismissed, the amount of the  
14 bail shall be promptly refunded to the defendant.

15 (c) Notwithstanding Division 10 (commencing with Section  
16 1200) of the Evidence Code, the rules governing trials by written  
17 declaration may provide for testimony and other relevant evidence  
18 to be introduced in the form of a notice to appear issued pursuant  
19 to Section 40500, a business record or receipt, a sworn declaration  
20 of the arresting officer, or a written statement or letter signed by  
21 the defendant.

22 ~~(d) If the defendant is dissatisfied with a decision of the court~~  
23 ~~in a proceeding pursuant to this section, the defendant shall be~~  
24 ~~granted a trial de novo.~~