

AMENDED IN SENATE JUNE 1, 2015

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 405

Introduced by Senator Hertzberg

(Principal coauthor: Senator Leno)

(Coauthors: Senators Beall and Wieckowski)

***(Coauthors: Assembly Members Atkins, Chiu, Cooley, Dodd, Gonzalez,
and Jones-Sawyer)***

February 25, 2015

An act to add and repeal Section 42008.8 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 405, as amended, Hertzberg. Vehicles: infraction and misdemeanor violations: amnesty.

Existing law requires a county to establish a one-time amnesty program for fines and bail due on or before January 1, 2009, for certain infraction or misdemeanor violations of the Vehicle Code and the Penal Code. Existing law allows a person owing a fine or bail that was eligible for amnesty under this program to pay 50% of the total fine or bail, as defined, which is required to be accepted by the court in full satisfaction of the delinquent fine or bail. Under existing law, the amnesty program was operative from January 1, 2012, until June 30, 2012.

This bill would, until January 1, 2018, ~~require~~ *provide that* a county that establishes an amnesty program to allow a person owing a fine or bail that was due on or before January 1, 2013, to pay ~~a specified percentage of the delinquent amount in full satisfaction of the fine or bail and to comply~~ *either 20% of the delinquent amount owed, in full satisfaction of the fine or bail, if the person has income that does not*

exceed 125% of the federal poverty level or he or she is a recipient of any state or federal need-based assistance program, as specified, or 50% of the delinquent amount owed if he or she does not meet the above-described criteria. The bill would require a participant eligible to pay only 20% of the delinquent amount owed to declare, under penalty of perjury, that either his or her income does not exceed 125% of the federal poverty level or that he or she is a recipient of public assistance. The bill would also require a county that establishes an amnesty program to comply with guidelines promulgated by the Judicial Council. The bill would require the Department of Motor Vehicles to restore the driving privilege of a participant in the amnesty program whose driver's license was suspended for failure to appear in court or failure to pay a fine or bail, as specified. The bill would direct the Judicial Council to adopt guidelines for the amnesty program by March 1, 2016. The bill would require the Judicial Council to reimburse all costs, including personnel costs, incurred by the Department of Motor Vehicles associated with specified tasks, including posting on the department's Internet Web site information regarding the amnesty program. The bill would also require counties to file a report with the Judicial Council, for submission to the Legislature, regarding the number of cases resolved, the amount of money collected, and the operating costs of the amnesty program. The bill would state findings and declarations by the Legislature relative to these matters. ~~By imposing these duties on counties, By expanding the scope of the crime of perjury,~~ this bill would impose a state-mandated local program.

~~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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions:~~

~~*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.*~~

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

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Driving in California is often described as a privilege, but
4 for millions of Californians it is an economic necessity. Each day
5 millions of Californians take to the road to go to work, drop off
6 their children at school and activities, go shopping, and visit family.
7 Without the ability to drive, millions of families cannot afford to
8 pay the cost of housing, pay utilities, put food on the table, afford
9 clothing for their children, or be able to save for retirement. In
10 short, driving is a fundamental need of virtually every person in
11 the state.

12 (b) Unfortunately, millions of Californians have lost the ability
13 to drive legally. Their driver's licenses have been suspended, not
14 because they are a danger to public safety, but because they could
15 not pay fines associated with minor traffic tickets and other related
16 fees and assessments. In the past five years, the Department of
17 Motor Vehicles has suspended more than 2.7 million driver's
18 licenses for drivers' failure to appear in court or failure to make
19 payments ordered by a court. The Legislative Analyst's Office
20 reports that there is currently more than \$10 billion in
21 court-ordered, uncollected debt in California and \$8 billion of this
22 amount is for unpaid traffic violations.

23 (c) For many families, a driver's license suspension is the
24 beginning of a descent into abject poverty for which there is no
25 escape. Legal services advocates report that once a person gets his
26 or her driver's license suspended in California, it is virtually
27 impossible for the driver's license to be restored until all the unpaid
28 fees, fines, and assessments are completely paid. Many people
29 with a suspended driver's license are low income and can only
30 pay the debt off a little at a time. Others are unemployed or on
31 public assistance and cannot afford to make any payments. The
32 State of New Jersey did a study of persons with suspended driver's
33 licenses and found that 42 percent lost their jobs after their driver's
34 licenses were suspended and less than one-half of them were able
35 to find new jobs; 88 percent experienced a loss of income.

36 (d) The original rationale for suspending driver's licenses was
37 to compel a person who had committed a serious public safety
38 violation to correct his or her behavior. This rationale over time

1 has been extended to hundreds of nonpublic safety violations. As
2 a report by the American Association of Motor Vehicle
3 Administrators (AAMVA), “Best Practices Guide to Reducing
4 Suspended Drivers” notes, all 50 states now suspend driver’s
5 licenses for nonhighway safety reasons. The AAMVA report
6 recommends that states repeal laws that lead to driver’s license
7 suspensions for nonpublic safety reasons and replace those
8 suspensions with payment plans and wage garnishments to collect
9 court-ordered debt.

10 SEC. 2. Section 42008.8 is added to the Vehicle Code, to read:

11 42008.8. (a) A county that establishes a one-time amnesty
12 program for fines and bail shall conduct the program in accordance
13 with guidelines provided by the Judicial Council. The guidelines
14 shall be adopted by March 1, 2016. Until the guidelines are adopted
15 by the Judicial Council, each program shall initially be conducted
16 in accordance with the Judicial Council’s guidelines adopted
17 pursuant to subdivision (f) of Section 42008.7.

18 (b) Unless agreed otherwise by the court and the county in
19 writing, the government entities that are responsible for the
20 collection of delinquent court-ordered debt shall be responsible
21 for implementation of the amnesty program as to that debt,
22 maintaining the same division of responsibility in place with
23 respect to the collection of court-ordered debt under subdivision
24 (b) of Section 1463.010 of the Penal Code.

25 (c) Commencing January 1, 2016, until January 1, 2018, each
26 amnesty program shall accept, in full satisfaction of any eligible
27 fine or bail, of which the due date for payment was on or before
28 January 1, 2013, the following amounts:

29 ~~(1) Eighty percent of the fine or bail if the person has income~~
30 ~~that exceeds 200 percent of the federal poverty level.~~

31 ~~(2) Fifty percent of the fine or bail if the person has income that~~
32 ~~is greater than 150 percent of, but no more than 200 percent of,~~
33 ~~the federal poverty level.~~

34 ~~(3)–~~

35 (1) (A) Twenty percent of the fine or bail if the person has
36 income that ~~is no more than 150~~ *does not exceed 125* percent of
37 the federal poverty ~~level.~~ *level, or the person is a recipient of any*
38 *of the state or federal need-based assistance programs described*
39 *in subdivision (a) of Section 68632 of the Government Code.*

1 (B) Each participant under this paragraph shall declare, under
2 penalty of perjury, that either his or her income does not exceed
3 125 percent of the federal poverty level or that he or she is a
4 recipient of public assistance under one or more of the programs
5 described in subdivision (a) of Section 68632 of the Government
6 Code.

7 (2) Fifty percent of the fine or bail if the person is not described
8 in paragraph (1).

9 (d) Nothing in this section shall limit the court's ability to issue
10 an earning withholdings order as described in Chapter 5
11 (commencing with Section 706.101) of Division 2 of Title 9 of
12 Part 2 of the Code of Civil Procedure or to order the person to
13 perform community services in lieu of paying the amounts
14 specified in subdivision (c).

15 (e) The department shall restore the driving privilege of a
16 participant in the amnesty program whose driver's license was
17 suspended pursuant to Section 13365.

18 ~~(f) The department shall provide a notice to each person whose
19 driver's license has been suspended pursuant to Section 13365
20 regarding his or her potential eligibility for the amnesty program.
21 The notice shall be provided in the languages specified in
22 subdivision (b) of Section 1632 of the Civil Code.~~

23 (f) The Judicial Council shall reimburse all costs, including
24 personnel costs, incurred by the department associated with both
25 of the following:

26 (1) Providing on a separate insert with each motor vehicle
27 registration renewal notice a summary of the amnesty program
28 established pursuant to this section.

29 (2) Posting on the department's Internet Web site information
30 regarding the amnesty program.

31 (g) No criminal action shall be brought against a person for a
32 delinquent fine or bail paid under the amnesty program.

33 (h) Each court or county implementing an amnesty program
34 shall file, not later than one year after establishing the program, a
35 written report with the Judicial Council, on a form approved by
36 the Judicial Council. The report shall include information about
37 the number of cases resolved, the amount of money collected, and
38 the operating costs of the amnesty program. The Judicial Council
39 shall submit a report to the Legislature summarizing the
40 information provided by each court or county. The report shall be

1 submitted in compliance with Section 9795 of the Government
2 Code.

3 (i) This section shall remain in effect only until January 1, 2018,
4 and as of that date is repealed, unless a later enacted statute, that
5 is enacted before January 1, 2018, deletes or extends that date.

6 ~~SEC. 3.— If the Commission on State Mandates determines that~~
7 ~~this act contains costs mandated by the state, reimbursement to~~
8 ~~local agencies and school districts for those costs shall be made~~
9 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
10 ~~4 of Title 2 of the Government Code.~~

11 *SEC. 3. No reimbursement is required by this act pursuant to*
12 *Section 6 of Article XIII B of the California Constitution because*
13 *the only costs that may be incurred by a local agency or school*
14 *district will be incurred because this act creates a new crime or*
15 *infraction, eliminates a crime or infraction, or changes the penalty*
16 *for a crime or infraction, within the meaning of Section 17556 of*
17 *the Government Code, or changes the definition of a crime within*
18 *the meaning of Section 6 of Article XIII B of the California*
19 *Constitution.*