

AMENDED IN ASSEMBLY AUGUST 19, 2016

AMENDED IN ASSEMBLY AUGUST 15, 2016

AMENDED IN ASSEMBLY JUNE 29, 2016

AMENDED IN SENATE MAY 2, 2016

AMENDED IN SENATE MARCH 17, 2016

SENATE BILL

No. 881

Introduced by Senator Hertzberg

January 15, 2016

An act to amend Section 42008.8 of the Vehicle Code, relating to ~~vehicles, and making an appropriation therefor.~~ *vehicles.*

LEGISLATIVE COUNSEL'S DIGEST

SB 881, as amended, Hertzberg. Vehicles: violations: payment of fines and bail.

Existing law requires a county to establish an amnesty program for *unpaid* fines and bail initially due on or before January 1, 2013, for Vehicle Code infractions to be conducted in accordance with guidelines adopted by the Judicial Council. Existing law requires the program to accept payments from October 1, 2015, to March 31, 2017, inclusive. Existing law requires the program to accept a reduced payment in full satisfaction of the fine or bail if the program participant certifies under penalty of perjury that he or she receives specified public benefits or his or her income is 125% or less of the current poverty guidelines. ~~Existing law requires certain funds collected under the amnesty program to be transferred, in specified percentages, to the Peace Officers' Training Fund and the Corrections Training Fund, which are continuously appropriated funds. *If the driving privilege of an amnesty*~~

program participant or a person who is in good standing in a comprehensive collection program has been suspended due to a Vehicle Code violation that is subject to the amnesty program, existing law requires the court to issue and file a certificate with the Department of Motor Vehicles demonstrating that the participant has appeared in court, paid the fine, or has otherwise satisfied the court.

~~This bill would extend the period for acceptance of payments under the amnesty program to December 31, 2017. The bill also would extend the initial due date for payment of the fine or bail for an eligible violation, from on or before January 1, 2013, to on or before January 1, 2015, and would require a specified certificate issued by the court to be filed within 90 days after issuance.~~

~~Because this bill would extend the terms of the amnesty program and would expand the scope of the crime of perjury, the bill would impose a state-mandated local program. The bill also would make an appropriation, by increasing the amount of money that would be deposited into continuously appropriated funds as a result of extending the program's duration.~~

~~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 with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

This bill would require the court to issue and file the certificate with the department within 90 days. For applications submitted prior to January 1, 2017, the bill would require the court to issue and file the certificate no later than March 31, 2017.

Vote: $\frac{2}{3}$ -majority. Appropriation: *yes-no*. Fiscal committee: *yes no*. State-mandated local program: *yes-no*.

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

- 1 SECTION 1. Section 42008.8 of the Vehicle Code is amended
- 2 to read:
- 3 42008.8. (a) The Legislature finds and declares that a one-time
- 4 infraction amnesty program would do all of the following:

1 (1) Provide relief to individuals who have found themselves in
2 violation of a court-ordered obligation because they have unpaid
3 traffic bail or fines.

4 (2) Provide relief to individuals who have found themselves in
5 violation of a court-ordered obligation or who have had their
6 driving privileges suspended pursuant to Section 13365.

7 (3) Provide increased revenue at a time when revenue is scarce
8 by encouraging payment of old fines that have remained unpaid.

9 (4) Allow courts and counties to resolve older delinquent cases
10 and focus limited resources on collections for more recent cases.

11 (b) A one-time amnesty program for *unpaid* fines and bail
12 meeting the eligibility requirements set forth in subdivision (g)
13 shall be established in each ~~county through December 31, 2017.~~
14 *county*. Unless agreed otherwise by the court and the county in
15 writing, the government entities that are responsible for the
16 collection of delinquent court-ordered debt shall be responsible
17 for implementation of the amnesty program as to that debt,
18 maintaining the same division of responsibility in place with
19 respect to the collection of court-ordered debt under subdivision
20 (b) of Section 1463.010 of the Penal Code.

21 (c) As used in this section, the term “fine” or “bail” refers to
22 the total amounts due in connection with a specific violation, which
23 include, but are not limited to, all of the following:

24 (1) Base fine or bail, as established by court order, by statute,
25 or by the court’s bail schedule.

26 (2) Penalty assessments imposed pursuant to Section 1464 of
27 the Penal Code, and Sections 70372, 76000, 76000.5, 76104.6,
28 and 76104.7 of, and paragraph (1) of subdivision (c) of Section
29 76000.10 of, the Government Code, and Section 42006 of this
30 code.

31 (3) State surcharges imposed pursuant to Section 1465.7 of the
32 Penal Code.

33 (4) Court operations assessments imposed pursuant to Section
34 1465.8 of the Penal Code.

35 (5) Criminal conviction assessments pursuant to Section 70373
36 of the Government Code.

37 (d) Notwithstanding subdivision (c), any civil assessment
38 imposed pursuant to Section 1214.1 of the Penal Code shall not
39 be collected, nor shall the payment of that assessment be a
40 requirement of participation in the amnesty program.

1 (e) Concurrent with the amnesty program established pursuant
2 to subdivision (b), between October 1, 2015, to ~~December~~ *March*
3 31, 2017, inclusive, the following shall apply:

4 (1) The court shall ~~issue, and file with the Department of Motor~~
5 ~~Vehicles within 90 days,,~~ *within 90 days, issue and file* the
6 appropriate certificate pursuant to subdivisions (a) and (b) of
7 Section 40509 for any participant of the one-time amnesty program
8 established pursuant to subdivision (b) demonstrating that the
9 participant has appeared in court, paid the fine, or otherwise
10 satisfied the court, if the driving privilege of that participant was
11 suspended pursuant to Section 13365 in connection with a specific
12 violation described in paragraph (1), (2), or (3) of subdivision (g).
13 *For applications submitted prior to January 1, 2017, that remain*
14 *outstanding as of that date, the court shall issue and file the*
15 *certificate no later than March 31, 2017.*

16 (2) The court shall ~~issue, and file with the department within~~
17 ~~90 days,,~~ *within 90 days, issue and file with the department* the
18 appropriate certificate pursuant to subdivisions (a) and (b) of
19 Section 40509 for any person in good standing in a comprehensive
20 collection program pursuant to subdivision (c) of Section 1463.007
21 of the Penal Code demonstrating that the person has appeared in
22 court, paid the fine, or otherwise satisfied the court, if the driving
23 privilege was suspended pursuant to Section 13365 in connection
24 with a specific violation described in paragraph (1), (2), or (3) of
25 subdivision (g). *For applications submitted prior to January 1,*
26 *2017 that remain outstanding as of that date, the court shall issue*
27 *and file the certificate no later than March 31, 2017.*

28 (3) Any person who is eligible for a driver's license pursuant
29 to Section 12801, 12801.5, or 12801.9 shall be eligible for the
30 amnesty program established pursuant to subdivision (b) for any
31 specific violation described in subdivision (g). The department
32 shall issue a driver's license to any person who is eligible pursuant
33 to Section 12801, 12801.5, or 12801.9 if the person is participating
34 in the amnesty program and is otherwise eligible for the driver's
35 license but for the fines or bail to be collected through the program.

36 (4) The Department of Motor Vehicles shall not deny reinstating
37 the driving privilege of any person who participates in the amnesty
38 program established pursuant to subdivision (b) for any fines or
39 bail in connection with the specific violation that is the basis for
40 participation in the amnesty program.

1 (f) In addition to, and at the same time as, the mandatory
2 one-time amnesty program is established pursuant to subdivision
3 (b), the court and the county may jointly agree to extend that
4 amnesty program to fines and bail imposed for a misdemeanor
5 violation of this code and a violation of Section 853.7 of the Penal
6 Code that was added to the misdemeanor case otherwise subject
7 to the amnesty. The amnesty program authorized pursuant to this
8 subdivision shall not apply to parking violations and violations of
9 Sections 23103, 23104, 23105, 23152, and 23153.

10 (g) A violation is only eligible for amnesty if paragraph (1), (2),
11 or (3) applies, and the requirements of paragraphs (4) to (7),
12 inclusive, are met:

13 (1) The violation is an infraction violation filed with the court.

14 (2) It is a violation of subdivision (a) or (b) of Section 40508,
15 or a violation of Section 853.7 of the Penal Code that was added
16 to the case subject to paragraph (1).

17 (3) The violation is a misdemeanor violation filed with the court
18 to which subdivision (f) applies.

19 (4) The initial due date for payment of the fine or bail was on
20 or before January 1, ~~2015~~: 2013.

21 (5) There are no outstanding misdemeanor or felony warrants
22 for the defendant within the county, except for misdemeanor
23 warrants for misdemeanor violations subject to this section.

24 (6) The person does not owe victim restitution on any case
25 within the county.

26 (7) The person has not made any payments for the violation
27 after September 30, 2015, to a comprehensive collection program
28 in the county pursuant to subdivision (c) of Section 1463.007 of
29 the Penal Code.

30 (8) *The person filed a request with the court on or before March*
31 *31, 2017.*

32 (h) (1) Except as provided in paragraph (2), each amnesty
33 program shall accept, in full satisfaction of any eligible fine or
34 bail, 50 percent of the fine or bail amount, as defined in subdivision
35 (c).

36 (2) If the participant certifies under penalty of perjury that he
37 or she receives any of the public benefits listed in subdivision (a)
38 of Section 68632 of the Government Code or is within the
39 conditions described in subdivision (b) of Section 68632 of the
40 Government Code, the amnesty program shall accept, in full

1 satisfaction of any eligible fine or bail, 20 percent of the fine or
2 bail amount, as defined in subdivision (c).

3 (i) The Judicial Council, in consultation with the California
4 State Association of Counties, shall adopt guidelines for the
5 amnesty program no later than October 1, 2015, and each program
6 shall be conducted in accordance with the Judicial Council's
7 guidelines. As part of its guidelines, the Judicial Council shall
8 include all of the following:

9 (1) Each court or county responsible for implementation of the
10 amnesty program pursuant to subdivision (b) shall recover costs
11 pursuant to subdivision (a) of Section 1463.007 of the Penal Code
12 and may charge an amnesty program fee of fifty dollars (\$50) that
13 may be collected with the receipt of the first payment of a
14 participant.

15 (2) A payment plan option created pursuant to Judicial Council
16 guidelines in which a monthly payment is equal to the amount that
17 an eligible participant can afford to pay per month consistent with
18 Sections 68633 and 68634 of the Government Code. If a participant
19 chooses the payment plan option, the county or court shall collect
20 all relevant information to allow for collection by the Franchise
21 Tax Board pursuant to existing protocols prescribed by the
22 Franchise Tax Board to collect delinquent debts of any amount in
23 which a participant is delinquent or otherwise in default under his
24 or her amnesty payment plan.

25 (3) If a participant does not comply with the terms of his or her
26 payment plan under the amnesty program, including failing to
27 make one or more payments, the appropriate agency shall send a
28 notice to the participant that he or she has failed to make one or
29 more payments and that the participant has 30 days to either resume
30 making payments or to request that the agency change the payment
31 amount. If the participant fails to respond to the notice within 30
32 days, the appropriate agency may refer the participant to the
33 Franchise Tax Board for collection of any remaining balance owed,
34 including an amount equal to the reasonable administrative costs
35 incurred by the Franchise Tax Board to collect the delinquent
36 amount owed. The Franchise Tax Board shall collect any
37 delinquent amounts owed pursuant to existing protocols prescribed
38 by the Franchise Tax Board. The comprehensive collection
39 program may also utilize additional collection efforts pursuant to

1 Section 1463.007 of the Penal Code, except for subparagraph (C)
2 of paragraph (4) of subdivision (c) of that section.

3 (4) A plan for outreach that will, at a minimum, make available
4 via an Internet Web site relevant information regarding the amnesty
5 program, including how an individual may participate in the
6 amnesty program.

7 (5) The Judicial Council shall reimburse costs incurred by the
8 Department of Motor Vehicles up to an amount not to exceed two
9 hundred fifty thousand dollars (\$250,000), including all of the
10 following:

11 (A) Providing on a separate insert with each motor vehicle
12 registration renewal notice a summary of the amnesty program
13 established pursuant to this section that is compliant with Section
14 7292 of the Government Code.

15 (B) Posting on the department's Internet Web site information
16 regarding the amnesty program.

17 (C) Personnel costs associated with the amnesty program.

18 (j) The Judicial Council, in consultation with the department,
19 may, within its existing resources, consider, adopt, or develop
20 recommendations for an appropriate mechanism or mechanisms
21 to allow reinstatement of the driving privilege of any person who
22 otherwise meets the criteria for amnesty but who has violations in
23 more than one county.

24 (k) No criminal action shall be brought against a person for a
25 delinquent fine or bail paid under the amnesty program.

26 (l) (1) The total amount of funds collected under the amnesty
27 program shall, as soon as practical after receipt thereof, be
28 deposited in the county treasury or the account established under
29 Section 77009 of the Government Code. After acceptance of the
30 amount specified in subdivision (h), notwithstanding Section
31 1203.1d of the Penal Code, the remaining revenues collected under
32 the amnesty program shall be distributed on a pro rata basis in the
33 same manner as a partial payment distributed pursuant to Section
34 1462.5 of the Penal Code.

35 (2) Notwithstanding Section 1464 of the Penal Code, the amount
36 of funds collected pursuant to this section that would be available
37 for distribution pursuant to subdivision (f) of Section 1464 of the
38 Penal Code shall instead be distributed as follows:

39 (A) The first two hundred fifty thousand dollars (\$250,000)
40 received shall be transferred to the Judicial Council.

1 (B) Following the transfer of the funds described in
2 subparagraph (A), once a month, both of the following transfers
3 shall occur:

4 (i) An amount equal to 82.20 percent of the amount of funds
5 collected pursuant to this section during the preceding month shall
6 be transferred into the Peace Officers' Training Fund.

7 (ii) An amount equal to 17.80 percent of the amount of funds
8 collected pursuant to this section during the preceding month shall
9 be transferred into the Corrections Training Fund.

10 (m) Each court or county implementing an amnesty program
11 shall file, not later than May 31, 2017, a written report with the
12 Judicial Council, on a form approved by the Judicial Council. The
13 report shall include information about the number of cases resolved,
14 the amount of money collected, and the operating costs of the
15 amnesty program. Notwithstanding Section 10231.5 of the
16 Government Code, on or before August 31, 2017, the Judicial
17 Council shall submit a report to the Legislature summarizing the
18 information provided by each court or county.

19 SEC. 2. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution for certain
21 costs that may be incurred by a local agency or school district
22 because, in that regard, this act creates a new crime or infraction,
23 eliminates a crime or infraction, or changes the penalty for a crime
24 or infraction, within the meaning of Section 17556 of the
25 Government Code, or changes the definition of a crime within the
26 meaning of Section 6 of Article XIII B of the California
27 Constitution.

28 However, if the Commission on State Mandates determines that
29 this act contains other costs mandated by the state, reimbursement
30 to local agencies and school districts for those costs shall be made
31 pursuant to Part 7 (commencing with Section 17500) of Division
32 4 of Title 2 of the Government Code.