

AMENDED IN ASSEMBLY AUGUST 24, 2016

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.

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. 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 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. *The bill would require, for applications submitted on or before March 31, 2017, that all terms and procedures related to a participant’s payment plans remain in effect after that date.*

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 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:
 5 (1) Provide relief to individuals who have found themselves in
 6 violation of a court-ordered obligation because they have unpaid
 7 traffic bail or fines.
 8 (2) Provide relief to individuals who have found themselves in
 9 violation of a court-ordered obligation or who have had their
 10 driving privileges suspended pursuant to Section 13365.
 11 (3) Provide increased revenue at a time when revenue is scarce
 12 by encouraging payment of old fines that have remained unpaid.
 13 (4) Allow courts and counties to resolve older delinquent cases
 14 and focus limited resources on collections for more recent cases.
 15 (b) A one-time amnesty program for unpaid fines and bail
 16 meeting the eligibility requirements set forth in subdivision (g)
 17 shall be established in each county. Unless agreed otherwise by
 18 the court and the county in writing, the government entities that
 19 are responsible for the collection of delinquent court-ordered debt
 20 shall be responsible for implementation of the amnesty program
 21 as to that debt, maintaining the same division of responsibility in
 22 place with respect to the collection of court-ordered debt under
 23 subdivision (b) of Section 1463.010 of the Penal Code.

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

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

6 (2) Penalty assessments imposed pursuant to Section 1464 of
7 the Penal Code, and Sections 70372, 76000, 76000.5, 76104.6,
8 and 76104.7 of, and paragraph (1) of subdivision (c) of Section
9 76000.10 of, the Government Code, and Section 42006 of this
10 code.

11 (3) State surcharges imposed pursuant to Section 1465.7 of the
12 Penal Code.

13 (4) Court operations assessments imposed pursuant to Section
14 1465.8 of the Penal Code.

15 (5) Criminal conviction assessments pursuant to Section 70373
16 of the Government Code.

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

21 (e) Concurrent with the amnesty program established pursuant
22 to subdivision (b), between October 1, 2015, to March 31, 2017,
23 inclusive, the following shall apply:

24 (1) The court shall, within 90 days, issue and file the appropriate
25 certificate pursuant to subdivisions (a) and (b) of Section 40509
26 for any participant of the one-time amnesty program established
27 pursuant to subdivision (b) demonstrating that the participant has
28 appeared in court, paid the fine, or otherwise satisfied the court,
29 if the driving privilege of that participant was suspended pursuant
30 to Section 13365 in connection with a specific violation described
31 in paragraph (1), (2), or (3) of subdivision (g). For applications
32 submitted prior to January 1, 2017, that remain outstanding as of
33 that date, the court shall issue and file the certificate no later than
34 March 31, 2017. *For applications submitted on or before March*
35 *31, 2017, all terms and procedures related to the participant’s*
36 *payment plans shall remain in effect after March 31, 2017.*

37 (2) The court shall, within 90 days, issue and file with the
38 department the appropriate certificate pursuant to subdivisions (a)
39 and (b) of Section 40509 for any person in good standing in a
40 comprehensive collection program pursuant to subdivision (c) of

1 Section 1463.007 of the Penal Code demonstrating that the person
2 has appeared in court, paid the fine, or otherwise satisfied the court,
3 if the driving privilege was suspended pursuant to Section 13365
4 in connection with a specific violation described in paragraph (1),
5 (2), or (3) of subdivision (g). For applications submitted prior to
6 January 1, 2017 that remain outstanding as of that date, the court
7 shall issue and file the certificate no later than March 31, 2017.
8 *For applications submitted on or before March 31, 2017, all terms*
9 *and procedures related to the participant's payment plans shall*
10 *remain in effect after March 31, 2017.*

11 (3) Any person who is eligible for a driver's license pursuant
12 to Section 12801, 12801.5, or 12801.9 shall be eligible for the
13 amnesty program established pursuant to subdivision (b) for any
14 specific violation described in subdivision (g). The department
15 shall issue a driver's license to any person who is eligible pursuant
16 to Section 12801, 12801.5, or 12801.9 if the person is participating
17 in the amnesty program and is otherwise eligible for the driver's
18 license but for the fines or bail to be collected through the program.

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

24 (f) In addition to, and at the same time as, the mandatory
25 one-time amnesty program is established pursuant to subdivision
26 (b), the court and the county may jointly agree to extend that
27 amnesty program to fines and bail imposed for a misdemeanor
28 violation of this code and a violation of Section 853.7 of the Penal
29 Code that was added to the misdemeanor case otherwise subject
30 to the amnesty. The amnesty program authorized pursuant to this
31 subdivision shall not apply to parking violations and violations of
32 Sections 23103, 23104, 23105, 23152, and 23153.

33 (g) A violation is only eligible for amnesty if paragraph (1), (2),
34 or (3) applies, and the requirements of paragraphs (4) to ~~(7)~~; (8),
35 inclusive, are met:

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

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

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

3 (4) The initial due date for payment of the fine or bail was on
4 or before January 1, 2013.

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

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

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

14 (8) The person filed a request with the court on or before March
15 31, 2017.

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

20 (2) If the participant certifies under penalty of perjury that he
21 or she receives any of the public benefits listed in subdivision (a)
22 of Section 68632 of the Government Code or is within the
23 conditions described in subdivision (b) of Section 68632 of the
24 Government Code, the amnesty program shall accept, in full
25 satisfaction of any eligible fine or bail, 20 percent of the fine or
26 bail amount, as defined in subdivision (c).

27 (i) The Judicial Council, in consultation with the California
28 State Association of Counties, shall adopt guidelines for the
29 amnesty program no later than October 1, 2015, and each program
30 shall be conducted in accordance with the Judicial Council's
31 guidelines. As part of its guidelines, the Judicial Council shall
32 include all of the following:

33 (1) Each court or county responsible for implementation of the
34 amnesty program pursuant to subdivision (b) shall recover costs
35 pursuant to subdivision (a) of Section 1463.007 of the Penal Code
36 and may charge an amnesty program fee of fifty dollars (\$50) that
37 may be collected with the receipt of the first payment of a
38 participant.

39 (2) A payment plan option created pursuant to Judicial Council
40 guidelines in which a monthly payment is equal to the amount that

1 an eligible participant can afford to pay per month consistent with
2 Sections 68633 and 68634 of the Government Code. If a participant
3 chooses the payment plan option, the county or court shall collect
4 all relevant information to allow for collection by the Franchise
5 Tax Board pursuant to existing protocols prescribed by the
6 Franchise Tax Board to collect delinquent debts of any amount in
7 which a participant is delinquent or otherwise in default under his
8 or her amnesty payment plan.

9 (3) If a participant does not comply with the terms of his or her
10 payment plan under the amnesty program, including failing to
11 make one or more payments, the appropriate agency shall send a
12 notice to the participant that he or she has failed to make one or
13 more payments and that the participant has 30 days to either resume
14 making payments or to request that the agency change the payment
15 amount. If the participant fails to respond to the notice within 30
16 days, the appropriate agency may refer the participant to the
17 Franchise Tax Board for collection of any remaining balance owed,
18 including an amount equal to the reasonable administrative costs
19 incurred by the Franchise Tax Board to collect the delinquent
20 amount owed. The Franchise Tax Board shall collect any
21 delinquent amounts owed pursuant to existing protocols prescribed
22 by the Franchise Tax Board. The comprehensive collection
23 program may also utilize additional collection efforts pursuant to
24 Section 1463.007 of the Penal Code, except for subparagraph (C)
25 of paragraph (4) of subdivision (c) of that section.

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

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

34 (A) Providing on a separate insert with each motor vehicle
35 registration renewal notice a summary of the amnesty program
36 established pursuant to this section that is compliant with Section
37 7292 of the Government Code.

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

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

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

7 (k) ~~No~~A criminal action shall *not* be brought against a person
8 for a delinquent fine or bail paid under the amnesty program.

9 (l) (1) The total amount of funds collected under the amnesty
10 program shall, as soon as practical after receipt thereof, be
11 deposited in the county treasury or the account established under
12 Section 77009 of the Government Code. After acceptance of the
13 amount specified in subdivision (h), notwithstanding Section
14 1203.1d of the Penal Code, the remaining revenues collected under
15 the amnesty program shall be distributed on a pro rata basis in the
16 same manner as a partial payment distributed pursuant to Section
17 1462.5 of the Penal Code.

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

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

24 (B) Following the transfer of the funds described in
25 subparagraph (A), once a month, both of the following transfers
26 shall occur:

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

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

33 (m) Each court or county implementing an amnesty program
34 shall file, not later than May 31, 2017, a written report with the
35 Judicial Council, on a form approved by the Judicial Council. The
36 report shall include information about the number of cases resolved,
37 the amount of money collected, and the operating costs of the
38 amnesty program. Notwithstanding Section 10231.5 of the
39 Government Code, on or before August 31, 2017, the Judicial

1 Council shall submit a report to the Legislature summarizing the
2 information provided by each court or county.

3 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
4 ~~Section 6 of Article XIII B of the California Constitution for certain~~
5 ~~costs that may be incurred by a local agency or school district~~
6 ~~because, in that regard, this act creates a new crime or infraction,~~
7 ~~eliminates a crime or infraction, or changes the penalty for a crime~~
8 ~~or infraction, within the meaning of Section 17556 of the~~
9 ~~Government Code, or changes the definition of a crime within the~~
10 ~~meaning of Section 6 of Article XIII B of the California~~
11 ~~Constitution.~~

12 ~~However, if the Commission on State Mandates determines that~~
13 ~~this act contains other costs mandated by the state, reimbursement~~
14 ~~to local agencies and school districts for those costs shall be made~~
15 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
16 ~~4 of Title 2 of the Government Code.~~