

Introduced by Senator Leonard

February 16, 1996

An act to amend Sections 12807, 12808, 40509, and 40509.5 of, and to add Sections 1822 and 13365.2 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1579, as introduced, Leonard. Vehicles: driving under the influence: failure to appear.

(1) Existing law authorizes a court to give notice to the Department of Motor Vehicles of a failure to appear for specified violations relating to vehicles when any person has violated a written promise to appear in court, a lawfully granted continuance of his or her promise to appear in court, or an order to appear in court. If thereafter the case in which the promise was given is adjudicated or the person who has violated the court order appears in court or otherwise satisfies the order of the court, the magistrate or clerk of the court hearing the case is required to sign and file with the department a certificate to that effect.

Existing law authorizes a court to give notice to the department if any person has willfully failed to pay a lawfully imposed fine within the time authorized by the court, except as specified. If thereafter the fine is fully paid, the magistrate or clerk of the court is required to issue and file with the department a certificate showing that the fine has been paid.

This bill would, additionally, require a court to give notice to the department of a failure to appear for specified violations relating to driving under the influence of alcohol, drugs, or a

combination of alcohol and drugs, when any person has violated a written promise to appear in court, a lawfully granted continuance of his or her promise to appear in court, or an order to appear in court. If thereafter the case in which the promise was given is adjudicated or the person who has violated the court order appears in court or otherwise satisfies the order of the court, the bill would require the magistrate or clerk of the court hearing the case to sign and file with the department a certificate to that effect.

By imposing additional duties upon the courts, the bill would create a state-mandated local program.

(2) The bill would require the department to refuse to issue or renew a driver's license when it has received a notice as authorized under existing law, as specified above, or as required under the provision specified above that the bill would add.

The bill would authorize any notice received by the department as specified in the provision that the bill would add to be removed from the department records when the notice has been on file 10 years.

The bill would require the department to suspend the driving privilege of a person for whom the department has received the notice specified in the provision the bill would add, after giving 45 days' notice. The bill would require the suspension to continue until the department receives a specified certificate from the court to the effect that the case has been adjudicated, that the person has appeared in court, or that the person has otherwise satisfied the order of the court.

(3) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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.

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. Section 1822 is added to the Vehicle
2 Code, to read:

3 1822. The Legislature finds that driving under the
4 influence of alcohol or drugs continues to be a primary
5 safety issue on the state's highways, and the major cause
6 of traffic deaths. It is imperative that violators who drive
7 while under the influence of alcohol or drugs be fully
8 prosecuted under the law. The Legislature also finds that
9 too often violators have not had their driving records at
10 the Department of Motor Vehicles appropriately
11 updated. Therefore, it is the intent of the Legislature that
12 the department, working with the courts, establish and
13 maintain a data and monitoring system to track violations
14 of driving under the influence of alcohol or drugs,
15 including, but not limited to, violations of Article 1.3
16 (commencing with Section 23136), Article 1.5
17 (commencing with Section 23140), and Article 2
18 (commencing with Section 23152), of Chapter 12 of
19 Division 11. The system shall match arrests for driving
20 under the influence of alcohol or drug violations with
21 convictions reported to the department.

22 SEC. 2. Section 12807 of the Vehicle Code is amended
23 to read:

24 12807. The department shall not issue or renew a
25 driver's license to any person:

26 (a) When a license previously issued to the person
27 under this code has been suspended until the expiration
28 of the period of the suspension, unless cause for
29 suspension has been removed.

30 (b) When a license previously issued to the person
31 under this code has been revoked until the expiration of
32 one year after the date of the revocation, except where



1 a different period of revocation is prescribed by this code,
2 or unless the cause for revocation has been removed.

3 (c) When the department has received a notice
4 pursuant to ~~subdivision (a) of Section 40509 or 40509.5,~~
5 unless the department has received a certificate as
6 provided in ~~that subdivision~~ *those sections*.

7 ~~(d) When the department has been notified by a court
8 that the licensee has failed to pay a lawfully imposed fine
9 within the time authorized by the court for any violation
10 which is required to be reported pursuant to Section 1803.~~

11 SEC. 3. Section 12808 of the Vehicle Code is amended
12 to read:

13 12808. (a) The department shall, before issuing or
14 renewing any license, check the record of the applicant
15 for conviction of traffic violations and traffic accidents.

16 (b) The department shall, before issuing or renewing
17 any license, check the record of the applicant for notices
18 of failure to appear in court filed with it and shall withhold
19 or shall not issue a license to any applicant who has
20 violated his written promise to appear in court unless the
21 department has received a certificate issued by the
22 magistrate or clerk of the court hearing the case in which
23 the promise was given showing that the case has been
24 adjudicated or unless the applicant's record is cleared as
25 provided in Chapter 6 (commencing with Section 41500)
26 of Division 17. In lieu of the certificate of adjudication, a
27 notice from the court stating that the original records
28 have been lost or destroyed shall permit the department
29 to issue a license.

30 (c) (1) Any notice received by the department
31 pursuant to Section 40509, 40509.1, or 40509.5 ~~which,~~
32 *except subdivision (c) of Section 40509.5, that* has been on
33 file five years may be removed from the department
34 records and destroyed at the discretion of the
35 department.

36 (2) *Any notice received by the department under*
37 *subdivision (c) of Section 40509.5 that has been on file 10*
38 *years may be removed from the department records and*
39 *destroyed at the discretion of the department.*



1 SEC. 4. Section 13365.2 is added to the Vehicle Code,
2 to read:

3 13365.2. (a) Upon receipt of the notice required
4 under subdivision (c) of Section 40509.5, the department
5 shall suspend the driving privilege of the person upon
6 whom notice was received and shall continue that
7 suspension until receipt of the certificate required under
8 that subdivision.

9 (b) The suspension required under subdivision (a)
10 shall become effective on the 45th day after the mailing
11 of written notice by the department.

12 SEC. 5. Section 40509 of the Vehicle Code is amended
13 to read:

14 40509. (a) *Except as required under subdivision*
15 *(c) of Section 40509.5, if* any person has for a period of 15
16 or more days violated a written promise to appear or a
17 lawfully granted continuance of his or her promise to
18 appear in court or before the person authorized to
19 receive a deposit of bail, or violated an order to appear in
20 court, including, but not limited to, a written notice to
21 appear issued in accordance with Section 40518, the
22 magistrate or clerk of the court may give notice of the
23 failure to appear to the department for any violation of
24 this code, or any violation that can be heard by a juvenile
25 traffic hearing referee pursuant to Section 256 of the
26 Welfare and Institutions Code, or any violation of any
27 other statute relating to the safe operation of a vehicle,
28 except violations not required to be reported pursuant to
29 paragraphs (1), (2), (3), (6), (7), and (8) of subdivision
30 (b) of Section 1803. The notice shall be given within 60
31 days of the failure to appear. If thereafter the case in
32 which the promise was given is adjudicated or the person
33 who has violated the court order appears in court or
34 otherwise satisfies the order of the court, the magistrate
35 or clerk of the court hearing the case shall sign and file
36 with the department a certificate to that effect.

37 (b) If any person has, for a period of 15 or more days,
38 willfully failed to pay a lawfully imposed fine within the
39 time authorized by the court or to pay a fine pursuant to
40 subdivision (a) of Section 42003, the magistrate or clerk



1 of the court may give notice of the fact to the department
2 for any violation, except violations not required to be
3 reported pursuant to paragraphs (1), (2), (3), (6), (7),
4 and (8) of subdivision (b) of Section 1803. If thereafter
5 the fine is fully paid, the magistrate or clerk of the court
6 shall issue and file with the department a certificate
7 showing that the fine has been paid.

8 (c) (1) Notwithstanding subdivisions (a) and (b), the
9 court may notify the department of the total amount of
10 bail, fines, assessments, and fees authorized or required
11 by this code, including Section 40508.5, which are unpaid
12 by any person.

13 (2) Once a court has established the amount of a fine
14 and any assessments, and notified the department, the
15 court shall not further enhance or modify that amount.

16 (3) This subdivision applies only to violations of this
17 code that do not require a mandatory court appearance,
18 are not contested by the defendant, and do not require
19 proof of correction certified by the court.

20 (d) Whenever any person has for a period of 15 or
21 more days willfully failed to obey any court order
22 concerning a violation of this code other than failure to
23 appear or pay a fine, the department shall suspend the
24 person's privilege to operate a motor vehicle until
25 compliance with the court order is shown. The magistrate
26 or clerk of the court may give notice of any
27 noncompliance of a court order to the department. The
28 suspension shall not become effective until 45 days after
29 the giving of written notice by the department to the
30 person or until the end of any stay of suspension.
31 However, this subdivision does not apply to court orders
32 concerning violations enumerated in paragraphs (1), (2),
33 (3), (6), and (7) of subdivision (b) of Section 1803.

34 (e) With respect to a violation of this code, this section
35 is applicable to any court which has not elected to be
36 subject to the notice requirements of subdivision (b) of
37 Section 40509.5.

38 (f) Any violation subject to Section 40001, which is the
39 responsibility of the owner of the vehicle, shall not be
40 reported under this section.



1 SEC. 6. Section 40509.5 of the Vehicle Code is
2 amended to read:

3 40509.5. (a) ~~If~~ *Except as required under subdivision*
4 *(c), if*, with respect to an offense described in subdivision
5 ~~(d)~~ *(e)*, any person has, for a period of 15 or more days,
6 violated his or her written promise to appear or a lawfully
7 granted continuance of his or her promise to appear in
8 court or before the person authorized to receive a deposit
9 of bail, or violated an order to appear in court, the
10 magistrate or clerk of the court may give notice of the
11 failure to appear to the department for any violation of
12 this code, any violation that can be heard by a juvenile
13 traffic hearing referee pursuant to Section 256 of the
14 Welfare and Institutions Code, or any violation of any
15 other statute relating to the safe operation of a vehicle,
16 except violations not required to be reported pursuant to
17 paragraphs (1), (2), (3), (6), and (7) of subdivision (b)
18 of Section 1803. The notice shall be given within 60 days
19 of the failure to appear. If thereafter the case in which the
20 promise was given is adjudicated or the person who has
21 violated the court order appears in court and satisfies the
22 order of the court, the magistrate or clerk of the court
23 hearing the case shall sign and file with the department
24 a certificate to that effect.

25 (b) If, with respect to an offense described in
26 subdivision ~~(d)~~ *(e)*, any person has, for a period of 15 or
27 more days, willfully failed to pay a lawfully imposed fine
28 within the time authorized by the court or to pay a fine
29 pursuant to subdivision (a) of Section 42003, the
30 magistrate or clerk of the court may give notice of the fact
31 to the department for any violation, except violations not
32 required to be reported pursuant to paragraphs (1), (2),
33 (3), (6), and (7) of subdivision (b) of Section 1803. If
34 thereafter the fine is fully paid, the magistrate or clerk of
35 the court shall issue and file with the department a
36 certificate showing that the fine has been paid.

37 ~~The~~ *If any person has, for a period of 15 or more*
38 *days, violated a lawfully granted continuance of his or her*
39 *promise to appear in court or is released from custody on*
40 *his or her own recognizance and fails to appear in court*



1 or before the person authorized to receive a deposit of
 2 bail, or violated an order to appear in court, for a violation
 3 of Section 23152 or 23153, or Section 191.5 of the Penal
 4 Code, or paragraph (3) of subdivision (c) of Section 192
 5 of that code, the magistrate or clerk of the court shall give
 6 notice to the department of the failure to appear. The
 7 notice shall be given within 60 days of the failure to
 8 appear. If thereafter the case in which the notice was
 9 given is adjudicated or the person who has violated the
 10 court order appears in court or otherwise satisfies the
 11 order of the court, the magistrate or clerk of the court
 12 hearing the case shall prepare and forward to the
 13 department a certificate to that effect.

14 (d) Except as required under subdivision (c), the
 15 court shall mail a courtesy warning notice to the
 16 defendant by first-class mail at the address shown on the
 17 notice to appear, at least 10 days before sending a notice
 18 to the department under this section.

19 ~~(d)~~

20 (e) If the court notifies the department of a failure to
 21 appear or pay a fine pursuant to ~~this section~~ subdivision
 22 (a) or (b), no arrest warrant shall be issued for an alleged
 23 violation of subdivision (a) or (b) of Section 40508 or of
 24 a court order issued pursuant to subdivision (a) of Section
 25 42003, unless one of the following criteria is met:

26 (1) The alleged underlying offense is a misdemeanor
 27 or felony.

28 (2) The alleged underlying offense is a violation of any
 29 provision of Division 12 (commencing with Section
 30 24000), Division 13 (commencing with Section 29000), or
 31 Division 15 (commencing with Section 35000), required
 32 to be reported pursuant to Section 1803.

33 (3) The driver's record does not show that the
 34 defendant has a valid California driver's license.

35 (4) The driver's record shows an unresolved charge
 36 that the defendant is in violation of his or her written
 37 promise to appear for one or more other alleged
 38 violations of the law.

39 ~~(e)~~ ~~In~~



1 (f) *Except as required under subdivision (c), in*
2 addition to the proceedings described in this section, the
3 court may elect to notify the department pursuant to
4 subdivision (c) of Section 40509.

5 ~~(f)~~

6 (g) Whenever any person has for a period of 15 or
7 more days willfully failed to obey any court order
8 concerning a violation of this code other than failure to
9 appear or pay a fine, the department shall suspend the
10 person's privilege to operate a motor vehicle until
11 compliance with the court order is shown. The magistrate
12 or clerk of the court may give notice of any
13 noncompliance of a court order to the department. The
14 suspension shall not become effective until 45 days after
15 the giving of written notice by the department to the
16 person or until the end of any stay of suspension.
17 However, this subdivision does not apply to court orders
18 concerning violations enumerated in paragraphs (1), (2),
19 (3), (6), and (7) of subdivision (b) of Section 1803.

20 ~~(g)~~

21 (h) This section is applicable to courts which have
22 elected to provide notice pursuant to subdivision (b). The
23 method of commencing or terminating an election to
24 proceed under this section shall be prescribed by the
25 department.

26 ~~(h)~~

27 (i) Any violation subject to Section 40001, which is the
28 responsibility of the owner of the vehicle, shall not be
29 reported under this section.

30 SEC. 7. Notwithstanding Section 17610 of the
31 Government Code, if the Commission on State Mandates
32 determines that this act contains costs mandated by the
33 state, reimbursement to local agencies and school
34 districts for those costs shall be made pursuant to Part 7
35 (commencing with Section 17500) of Division 4 of Title
36 2 of the Government Code. If the statewide cost of the
37 claim for reimbursement does not exceed one million
38 dollars (\$1,000,000), reimbursement shall be made from
39 the State Mandates Claims Fund.



1 Notwithstanding Section 17580 of the Government
2 Code, unless otherwise specified, the provisions of this act
3 shall become operative on the same date that the act
4 takes effect pursuant to the California Constitution.

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