

AMENDED IN SENATE SEPTEMBER 10, 1997

**SENATE BILL**

**No. 334**

**Introduced by Senator Lewis**

February 12, 1997

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~~An act to amend Sections 11580.07, 11580.1, 11580.26, and 11586 of the Insurance Code, and to amend Section 16056 of the Vehicle Code, relating to insurance. An act to amend Section 1192.7 of the Penal Code, relating to criminal procedure.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 334, as amended, Lewis. ~~Motor vehicle insurance; uninsured motorists; financial responsibility~~ *Criminal procedure; plea bargaining; serious felonies.*

*Existing law, amended by initiative statute, generally prohibits plea bargaining if a serious felony is charged. Under existing law, a serious felony includes, among other offenses, burglary of an inhabited dwelling house, grand theft involving a firearm, and carjacking. The initiative statute provides that any amendment of its provisions by the Legislature shall require a  $\frac{2}{3}$  vote of the membership of each house.*

*This bill would add knowingly causing or participating in a vehicular collision, or any other vehicular accident for the purpose of presenting any false or fraudulent claim, to the definition of serious felony for purposes of this prohibition on plea bargaining. Because it would amend an initiative statute, the bill would require a  $\frac{2}{3}$  vote. By making this crime subject to the prohibition on plea bargaining, the bill would increase*

*the costs of prosecuting this crime, thereby imposing 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 no reimbursement is required by this act for a specified reason.*

~~(1) Existing law requires an insurer to offer uninsured motorist coverage where a policy of motor vehicle liability insurance does not include collision coverage, as defined, coverage for property damage to the insured motor vehicle, but not including personal property contained therein, caused by the owner or operator of an uninsured motor vehicle. "Property damage" is defined for these purposes to mean payment for loss or damage to the insured motor vehicle resulting from collision, not to exceed its actual cash value or \$3,500, whichever is less, for which loss or damage the insured is legally entitled to recover from the owner or operator of an uninsured motor vehicle.~~

~~This bill would instead define property damage to mean a payment for loss or damage not to exceed the insured motor vehicle's actual cash value or \$5,000, whichever is less. The bill would make other technical changes.~~

~~(2) Existing law requires that a driver involved in a reportable accident, as specified, establish proof of financial responsibility, which may be in the form of a policy or bond from an insurance carrier duly authorized to do business within the state. Existing law specifies the minimum liability limits of financial responsibility for motor vehicle insurance with respect to a policy or bond at \$15,000 for injury or death to any one person in any one accident, \$30,000 for injury or death to two or more persons in any one accident, and if the accident resulted in the destruction of property, and \$5,000 for injury or destruction of the property of others in any one accident, as specified.~~

~~This bill would decrease those minimum coverage amounts to \$10,000, \$20,000, and \$3,000, respectively.~~

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

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

1     ~~SECTION 1. Section 11580.07 of the Insurance Code~~  
2     SECTION 1. Section 1192.7 of the Penal Code is  
3     amended to read:  
4     1192.7. (a) Plea bargaining in any case in which the  
5     indictment or information charges any serious felony, any  
6     felony in which it is alleged that a firearm was personally  
7     used by the defendant, or any offense of driving while  
8     under the influence of alcohol, drugs, narcotics, or any  
9     other intoxicating substance, or any combination thereof,  
10    is prohibited, unless there is insufficient evidence to  
11    prove the people’s case, or testimony of a material witness  
12    cannot be obtained, or a reduction or dismissal would not  
13    result in a substantial change in sentence.  
14    (b) As used in this section, “plea bargaining” means  
15    any bargaining, negotiation, or discussion between a  
16    criminal defendant, or his or her counsel, and a  
17    prosecuting attorney or judge, whereby the defendant  
18    agrees to plead guilty or nolo contendere, in exchange for  
19    any promises, commitments, concessions, assurances, or  
20    consideration by the prosecuting attorney or judge  
21    relating to any charge against the defendant or to the  
22    sentencing of the defendant.  
23    (c) As used in this section, “serious felony” means any  
24    of the following:  
25    (1) Murder or voluntary manslaughter; ~~(2) mayhem;~~  
26    ~~(3) rape; (4) sodomy.~~  
27    (2) *Mayhem*.  
28    (3) *Rape*.  
29    (4) *Sodomy* by force, violence, duress, menace, threat  
30    of great bodily injury, or fear of immediate and unlawful  
31    bodily injury on the victim or another person; ~~(5) oral.~~  
32    (5) *Oral* copulation by force, violence, duress, menace,  
33    threat of great bodily injury, or fear of immediate and  
34    unlawful bodily injury on the victim or another person;  
35    ~~(6) lewd.~~  
36    (6) *Lewd* or lascivious act on a child under the age of  
37    14 years; ~~(7) any.~~



1 (7) Any felony punishable by death or imprisonment  
2 in the state prison for life; ~~(8) any.~~  
3 (8) Any other felony in which the defendant  
4 personally inflicts great bodily injury on any person, other  
5 than an accomplice, or any felony in which the defendant  
6 personally uses a firearm; ~~(9) attempted murder; (10)~~  
7 ~~assault.~~  
8 (9) *Attempted murder.*  
9 (10) *Assault* with intent to commit rape or robbery;  
10 ~~(11) assault.~~  
11 (11) *Assault* with a deadly weapon or instrument on a  
12 peace officer; ~~(12) assault.~~  
13 (12) *Assault* by a life prisoner on a noninmate; ~~(13)~~  
14 ~~assault.~~  
15 (13) *Assault* with a deadly weapon by an inmate; ~~(14)~~  
16 ~~arson; (15) exploding.~~  
17 (14) *Arson.*  
18 (15) *Exploding* a destructive device or any explosive  
19 with intent to injure; ~~(16) exploding.~~  
20 (16) *Exploding* a destructive device or any explosive  
21 causing great bodily injury or mayhem; ~~(17) exploding.~~  
22 (17) *Exploding* a destructive device or any explosive  
23 with intent to murder; ~~(18) burglary.~~  
24 (18) *Burglary* of an inhabited dwelling house, or trailer  
25 coach as defined by the Vehicle Code, or inhabited  
26 portion of any other building; ~~(19) robbery.~~  
27 (19) *Robbery* or bank robbery; ~~(20) kidnapping; (21)~~  
28 ~~holding.~~  
29 (20) *Kidnapping.*  
30 (21)  *Holding* of a hostage by a person confined in a  
31 state prison; ~~(22) attempt.~~  
32 (22) *Attempt* to commit a felony punishable by death  
33 or imprisonment in the state prison for life; ~~(23) any.~~  
34 (23) Any felony in which the defendant personally  
35 used a dangerous or deadly weapon; ~~(24) selling.~~  
36 (24) *Selling*, furnishing, administering, giving, or  
37 offering to sell, furnish, administer, or give to a minor any  
38 heroin, cocaine, phencyclidine (PCP), or any  
39 methamphetamine-related drug, as described in  
40 paragraph (2) of subdivision (d) of Section 11055 of the



1 Health and Safety Code, or any of the precursors of  
2 methamphetamines, as described in subparagraph (A) of  
3 paragraph (1) of subdivision (f) of Section 11055 or  
4 subdivision (a) of Section 11100 of the Health and Safety  
5 Code; ~~(25) any.~~

6 (25) *Any violation of subdivision (a) of Section 289*  
7 *where the act is accomplished against the victim's will by*  
8 *force, violence, duress, menace, or fear of immediate and*  
9 *unlawful bodily injury on the victim or another person;*  
10 ~~(26) grand.~~

11 (26) *Grand theft involving a firearm;* ~~(27) carjacking;~~  
12 ~~any.~~

13 (27) *Carjacking.*

14 (28) *Any attempt to commit a crime listed in this*  
15 *subdivision other than an assault;* ~~and (20) any.~~

16 (29) *Any conspiracy to commit an offense described in*  
17 *paragraph (24) as it applies to Section 11370.4 of the*  
18 *Health and Safety Code where the defendant conspirator*  
19 *was substantially involved in the planning, direction, or*  
20 *financing of the underlying offense.*

21 (30) *Knowingly causing or participating in a vehicular*  
22 *collision, or any other vehicular accident for the purpose*  
23 *of presenting any false or fraudulent claim.*

24 (d) As used in this section, "bank robbery" means to  
25 take or attempt to take, by force or violence, or by  
26 intimidation from the person or presence of another any  
27 property or money or any other thing of value belonging  
28 to, or in the care, custody, control, management, or  
29 possession of, any bank, credit union, or any savings and  
30 loan association.

31 As used in this subdivision, the following terms have the  
32 following meanings:

33 (1) "Bank" means any member bank of the Federal  
34 Reserve System, and any bank, banking association, trust  
35 company, savings bank, or other banking institution  
36 organized or operating under the laws of the United  
37 States, and any bank the deposits of which are insured by  
38 the Federal Deposit Insurance Corporation.

39 (2) "Savings and loan association" means any federal  
40 savings and loan association and any "insured institution"



1 as defined in Section 401 of the National Housing Act, as  
2 amended, and any federal credit union as defined in  
3 Section 2 of the Federal Credit Union Act.

4 (3) "Credit union" means any federal credit union and  
5 any state-chartered credit union the accounts of which  
6 are insured by the Administrator of the National Credit  
7 Union Administration.

8 (e) The provisions of this section shall not be amended  
9 by the Legislature except by statute passed in each house  
10 by rollcall vote entered in the journal, two-thirds of the  
11 membership concurring, or by a statute that becomes  
12 effective only when approved by the electors.

13 *SEC. 2. No reimbursement is required by this act*  
14 *pursuant to Section 6 of Article XIII B of the California*  
15 *Constitution because the only costs that may be incurred*  
16 *by a local agency or school district will be incurred*  
17 *because this act creates a new crime or infraction,*  
18 *eliminates a crime or infraction, or changes the penalty*  
19 *for a crime or infraction, within the meaning of Section*  
20 *17556 of the Government Code, or changes the definition*  
21 *of a crime within the meaning of Section 6 of Article*  
22 *XIII B of the California Constitution.*

23 *Notwithstanding Section 17580 of the Government*  
24 *Code, unless otherwise specified, the provisions of this act*  
25 *shall become operative on the same date that the act*  
26 *takes effect pursuant to the California Constitution.*

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**All matter omitted in this version of the  
bill appears in the bill as introduced in the  
Senate, February 12, 1997 (JR 11)**

