

AMENDED IN ASSEMBLY APRIL 13, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1485**

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**Introduced by Assembly Member Granlund**

February 26, 1999

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An act to amend Sections 13370 and 13376 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1485, as amended, Granlund. Schoolbus certificates.

Under a provision in existing law, the Department of Motor Vehicles is required to deny or revoke a schoolbus, school pupil activity bus, youth bus, general public paratransit driver certificate, or a certificate to drive a vehicle used for the transportation of developmentally disabled persons, for any one of specified causes and the department is authorized to deny, suspend, or revoke the described certificate for other specified causes. A second provision in existing law requires the department to revoke the certificates and to deny an application for those certificates for any one of certain different listed causes and to temporarily suspend or withhold a certificate if the holder or applicant is arrested or charged with specified sex offenses subject to a hearing procedure.

This bill would recast the first referenced provision by limiting its application to the denial of a certificate for an application to drive the specified vehicles. The bill, under the first described provision, would expand the causes to deny a certificate for an applicant by including instances when an

applicant has been convicted of any violent or serious felonies as those felonies are listed in the Penal Code *and would not allow reapplication where a person has been convicted of certain sex offenses.* The bill would also include in the first described provision additional causes for denying a certificate, including conviction of hit and run driving, reckless driving, or driving under the influence of alcohol or drugs.

This bill would clarify that the provision governing revocations of certificates also applies to a certificate holder of a vehicle used for the transportation of developmentally disabled persons. *The bill would allow the department to suspend or revoke a certificate on essentially the same basis that the department may deny issuance of a certificate to an applicant.*

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

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

1 SECTION 1. Section 13370 of the Vehicle Code is  
2 amended to read:

3 13370. (a) The department shall deny a certificate  
4 for an applicant to drive a schoolbus, school pupil activity  
5 bus, general public paratransit vehicle, youth bus, or a  
6 vehicle used for the transportation of developmentally  
7 disabled persons if any of the following apply to the  
8 applicant:

9 (1) Has been convicted of any sex offense as defined in  
10 Section 44010 of the Education Code.

11 (2) Has been convicted, within the two years  
12 preceding the application date, of any offense specified  
13 in Section 11361.5 of the Health and Safety Code.

14 (3) Has failed to meet prescribed testing or training  
15 requirements for certificate issuance.

16 (4) Has, within the three years preceding the  
17 application date, either been convicted of a violation of  
18 Section 20001, 23103, 23104, 23152, or 23153 or had his or  
19 her driving privilege suspended, revoked, or placed on



1 probation by the department for a cause involving the  
2 safe operation of a motor vehicle.

3 (5) Has been convicted of any violent felony listed in  
4 subdivision (c) of Section 667.5 of the Penal Code or any  
5 serious felony listed in subdivision (c) of Section 1192.7 of  
6 the Penal Code.

7 (b) (1) The department shall deny an application for  
8 a certificate listed in subdivision (a), following an  
9 opportunity to challenge the validity of the testing  
10 described in this paragraph, if the certificate applicant  
11 has received a positive test result for a controlled  
12 substance, as specified in Part 382 (commencing with  
13 Section 382.101) of Title 49 of the Code of Federal  
14 Regulations and Section 34529.

15 (2) If the applicant receives a positive test result and  
16 has been provided an opportunity to challenge the  
17 validity of the test, the department shall deny the  
18 application for a certificate listed in subdivision (a) for  
19 three years from the date of the confirmed positive test  
20 result.

21 (3) The motor carrier that requested the test shall  
22 report the positive test result to the department not later  
23 than five days after receiving notification of the test result  
24 on a form approved by the department.

25 (4) The department shall maintain a positive test  
26 result reported under paragraph (3) in the driving record  
27 of the applicant for three years from the date the  
28 department receives the report.

29 (c) The department may deny a certificate listed in  
30 subdivision (a), if any of the following apply to the  
31 applicant:

32 (1) Has been convicted of any crime specified in  
33 Section 44424 of the Education Code within the seven  
34 years preceding the application date. This paragraph  
35 does not apply if denial is mandatory.

36 (2) Has committed any act involving moral turpitude.

37 (3) Has been convicted of any offense, not specified in  
38 this section, other than a sex offense, that is punishable as  
39 a felony, within the seven years preceding the application  
40 date.



1 (4) Has been dismissed as a driver for a cause relating  
2 to pupil transportation safety.

3 (5) Has been convicted, within the seven years  
4 preceding the application date, of any offense relating to  
5 the use, sale, possession, or transportation of narcotics,  
6 habit-forming drugs, or dangerous drugs, except as  
7 provided in paragraph (3) of subdivision (a).

8 (d) (1) The department may temporarily withhold  
9 issuance of a certificate listed in subdivision (a) to an  
10 original applicant, if the applicant is arrested for or  
11 charged with any sex offense, as defined in Section 44010  
12 of the Education Code.

13 (2) Upon receipt of a notice of the department's intent  
14 to withhold issuance of a certificate, the original applicant  
15 may request a hearing within 10 days of the effective date  
16 of the department's action.

17 (3) The department, upon request of the original  
18 applicant for a certificate, within 10 working days of the  
19 receipt of the request, shall conduct a hearing on whether  
20 the public interest requires withholding of the certificate  
21 pursuant to paragraph (1).

22 (4) If the charge is dismissed or results in a finding of  
23 not guilty, the department shall immediately resume the  
24 original application process, and shall expunge any action  
25 taken pursuant to this subdivision from the record of the  
26 original applicant.

27 (e) (1) Except as provided in subdivision (b),  
28 reapplication following denial under *paragraph* (2), (3),  
29 *or* (4) of subdivision (a) or ~~(b)~~ *subdivision* (c) may be  
30 made after a period of not less than one year from the  
31 effective date of the denial.

32 (2) An applicant may reapply for a certificate  
33 whenever a felony or misdemeanor conviction is  
34 reversed or dismissed. A termination of probation and  
35 dismissal of charges pursuant to Section 1203.4 of the  
36 Penal Code or a dismissal of charges pursuant to Section  
37 1203.4a of the Penal Code is not a dismissal for purposes  
38 of this section.

39 SEC. 2. Section 13376 of the Vehicle Code is amended  
40 to read:



1 13376. (a) The department shall revoke a schoolbus,  
2 school pupil activity bus, youth bus, general public  
3 paratransit driver certificate, or a certificate for a vehicle  
4 used for the transportation of developmentally disabled  
5 persons, for any of the following causes:

6 (1) The certificate holder has been convicted of any  
7 sex offense as defined in Section 44010 of the Education  
8 Code.

9 (2) The certificate holder, within the three years  
10 preceding the initial application date, or at any time  
11 thereafter has either been convicted of a violation of  
12 Section 20001, 23103, 23104, 23152, or 23153, or had his or  
13 her driving privilege suspended, revoked, or placed on  
14 probation by the department for a cause involving the  
15 safe operation of a motor vehicle.

16 (3) The certificate holder, within the two years  
17 preceding the initial application date, or any time  
18 thereafter, has been convicted of any offense specified in  
19 Section 11361.5 of the Health and Safety Code.

20 (4) The certificate holder has failed to meet the  
21 prescribed testing requirements for issuance of the  
22 certificate.

23 (b) (1) The department shall revoke a certificate  
24 listed in subdivision (a), following an opportunity to  
25 challenge the validity of the testing described in this  
26 paragraph, for three years if the certificate holder has  
27 received a positive test result for a controlled substance,  
28 as specified in Part 382 (commencing with Section  
29 382.101) of Title 49 of the Code of Federal Regulations  
30 and Section 34520. However, the department shall not  
31 revoke a certificate under this paragraph if the certificate  
32 holder is in compliance with any rehabilitation or return  
33 to duty program that is imposed by the employer that  
34 meets the controlled substances and alcohol use and  
35 testing requirements set forth in Part 382 (commencing  
36 with Section 382.101) of Title 49 of the Code of Federal  
37 Regulations.

38 (2) If a certificate holder receives a positive test result  
39 and has been provided an opportunity to challenge the  
40 validity of the test, the department shall revoke a



1 certificate listed in subdivision (a) for three years from  
2 the date of the confirmed positive test result.

3 (3) The carrier that requested the test shall report the  
4 positive test result to the department not later than five  
5 days after receiving notification of the test result on a  
6 form approved by the department.

7 (4) The department shall maintain a positive test  
8 result reported under paragraph (3) in the driving record  
9 of the certificate holder for three years from the date the  
10 department receives the report.

11 (c) *The department may suspend or revoke a*  
12 *certificate listed in subdivision (a) if the certificate holder*  
13 *has been any of the following:*

14 (1) *Convicted of any crime specified in Section 44424*  
15 *of the Education Code within the seven years preceding*  
16 *the application date. This paragraph does not apply if*  
17 *denial is mandatory.*

18 (2) *Committed any act involving moral turpitude.*

19 (3) *Convicted of any offense, not specific in this*  
20 *section and other than a sex offense, that is punishable as*  
21 *a felony, within the seven years preceding the application*  
22 *date.*

23 (4) *Dismissed as a driver for a cause relating to pupil*  
24 *transportation safety.*

25 (5) *Convicted, within the seven years preceding the*  
26 *application date, of any offense relating to other use, sale,*  
27 *possession, or transportation of narcotics, habit-forming*  
28 *drugs, or dangerous drugs, except as provided in*  
29 *paragraph (3) of subdivision (a).*

30 (d) *Reapplication following suspension or revocation*  
31 *under subdivision (a) or (c) may be made after a period*  
32 *of not less than one year from the effective date of denial*  
33 *or revocation.*

34 (e) (1) The department may temporarily suspend a  
35 certificate listed in subdivision (a) if the holder ~~or~~  
36 ~~applicant~~ is arrested for or charged with any sex offense,  
37 as defined in Section 44010 of the Education Code.

38 (2) Upon receipt of a notice of temporary suspension  
39 of a certificate, the certificate holder may request a



1 hearing within 10 days of the effective date of the  
2 department's action.

3 (3) The department shall, upon request of the holder  
4 of a certificate, within 10 working days of the receipt of  
5 the request, conduct a hearing on whether the public  
6 interest requires suspension of the certificate pursuant to  
7 paragraph (1).

8 (4) If the charge is dismissed or results in a finding of  
9 not guilty, the department shall immediately terminate  
10 the suspension , and shall expunge the suspension action  
11 taken pursuant to this subdivision from the record of the  
12 certificate holder.

13 ~~(d)~~

14 (f) A holder of a certificate may reapply for a  
15 certificate whenever a felony or misdemeanor conviction  
16 is reversed or dismissed. A termination of probation and  
17 dismissal of charges pursuant to Section 1203.4 of the  
18 Penal Code or a dismissal of charges pursuant to Section  
19 1203.4a of the Penal Code is not a dismissal for purposes  
20 of this section.

21 ~~(e)~~

22 (g) The determination of the facts pursuant to this  
23 section is a civil matter that is independent of the  
24 determination of the person's guilt or innocence, has no  
25 collateral estoppel effect on a subsequent criminal  
26 prosecution, and does not preclude the litigation of the  
27 same or similar facts in a criminal proceeding.

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