

Assembly Bill No. 636

Passed the Assembly September 10, 2009

Chief Clerk of the Assembly

Passed the Senate September 9, 2009

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 5387 of, and to add Section 5387.3 to, the Public Utilities Code, and to amend Sections 1803 and 13369 of, and to add Section 14602.9 to, the Vehicle Code, relating to charter-party carriers.

LEGISLATIVE COUNSEL'S DIGEST

AB 636, Jones. Charter-party carriers: busdrivers.

(1) The Passenger Charter-Party Carriers Act, with certain exceptions, prohibits a charter-party carrier of passengers from engaging in transportation services subject to regulation by the Public Utilities Commission without obtaining a specified certificate or permit, as appropriate, from the commission. The act makes it unlawful, among other things, for the owner of a charter-party carrier of passengers to permit the operation of any vehicle upon any public highway for compensation without having obtained from the commission a certificate or permit, as specified, pursuant to the act.

This bill would require the commission to permanently revoke the authority to operate a charter-party carrier or to permanently bar from receiving a permit or certificate from the commission a charter-party carrier that, among other things, operates a bus without having been issued a permit from the commission, operates a bus with a permit that was suspended by the commission for specified reasons, has one or more buses improperly registered with the Department of Motor Vehicles, or knowingly employs a busdriver who has not been issued the required driver's license of the proper class, a passenger vehicle endorsement, or the required certificate to drive a bus. The bill also would suspend for a period of 5 years a person who drives a bus for a charter-party carrier without having been issued the proper driver's license of the proper class, passenger vehicle endorsement, or the required certificate from driving a bus of any kind. The bill would require the Department of Motor Vehicles to refuse to issue or renew, or to suspend or revoke, that person's passenger vehicle endorsement and would provide that such a person would be ineligible for a

passenger vehicle endorsement that would permit him or her to drive a bus, as defined, for 5 years.

The bill would also authorize a charter-party carrier subject to the bar described above, that has received a notice of refusal or revocation of its permit to operate pursuant to these provisions, to submit a written request for a specified hearing within 15 days after the mailing of the notice.

The bill would authorize an officer of the Department of the California Highway Patrol to impound a bus of a charter-party carrier that is operating a bus without having been issued a permit or certificate from the commission, operates a bus with a suspended permit or certificate from the commission, or is operating a bus that is being driven by a driver to whom the appropriate driver's license of the proper class, a passenger vehicle endorsement, or the required certificate has not been issued. The bill would also prohibit the commission from issuing a new permit or certificate to operate a charter-party carrier if an officer, director, or owner of that charter-party carrier was an officer, director, or owner of a charter-party carrier that had its authority to operate as a charter-party carrier permanently revoked by the commission or was permanently barred from receiving a permit or certificate from the commission pursuant to these provisions.

(2) Under existing law, a violation of the Passenger Charter-Party Carriers Act, or a violation of an order or direction of the commission issued pursuant to the act, is a crime.

Because the provisions of this bill would be a part of the act and because a violation of those provisions or of an order or decision of the commission implementing those provisions would be a crime, the bill would impose a state-mandated local program by creating new crimes.

(3) Existing law requires the clerk of a court in which a person was convicted of a violation of the Vehicle Code to prepare within 5 days after conviction and immediately forward to the Department of Motor Vehicles an abstract of the record of the court covering the case in which the person was so convicted.

This bill would expand the Vehicle Code violations that the clerk of a court is required to report to the department to include violations of specified provisions of the Public Utilities Code, which include driving a bus for a charter-party carrier without having a current and valid driver's license of the proper class, a

passenger vehicle endorsement, or the required certificate, as specified.

(4) This bill would incorporate additional changes in Section 1803 of the Vehicle Code proposed by AB 134, that would become operative only if AB 134 and this bill are both chaptered and become effective on or before January 1, 2010, and this bill is chaptered last.

(5) This bill would become operative only if AB 951 of the 2009–10 Regular Session is enacted and becomes operative on or before January 1, 2010.

(6) 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.

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

SECTION 1. Section 5387 of the Public Utilities Code is amended to read:

5387. (a) It is unlawful for the owner of a charter-party carrier of passengers to permit the operation of a vehicle upon a public highway for compensation without (1) having obtained from the commission a certificate or permit pursuant to this chapter, (2) having complied with the vehicle identification requirements of Section 5385, 5385.5, or 5385.6, and (3) having complied with the accident liability protection requirements of Section 5391.

(b) A person who drives a bus for a charter-party carrier without having a current and valid driver's license of the proper class, a passenger vehicle endorsement, or the required certificate shall be suspended from driving a bus of any kind, including, but not limited to, a bus, schoolbus, school pupil activity bus, or transit bus, with passengers for a period of five years pursuant to Section 13369 of the Vehicle Code.

(c) (1) A charter-party carrier shall have its authority to operate as a charter-party carrier permanently revoked by the commission or be permanently barred from receiving a permit or certificate from the commission if it commits any of the following acts:

(A) Operates a bus without having been issued a permit or certificate from the commission.

(B) Operates a bus with a permit that was suspended by the commission pursuant to Section 5378.5.

(C) Commits three or more liability insurance violations within a two-year period for which it has been cited.

(D) Operates a bus with a permit that was suspended by the commission during a period that the charter-party carrier's liability insurance lapsed for which it has been cited.

(E) Knowingly employs a busdriver who does not have a current and valid driver's license of the proper class, a passenger vehicle endorsement, or the required certificate to drive a bus.

(F) Has one or more buses improperly registered with the Department of Motor Vehicles.

(2) The commission shall not issue a new permit or certificate to operate as a charter-party carrier if any officer, director, or owner of that charter-party carrier was an officer, director, or owner of a charter-party carrier that had its authority to operate as a charter-party carrier permanently revoked by the commission or that was permanently barred from receiving a permit or certificate from the commission pursuant to this subdivision.

(d) An officer of the Department of the California Highway Patrol may impound a bus of a charter-party carrier for 30 days pursuant to Section 14602.9 of the Vehicle Code if the officer determines that any of the following violations occurred while the bus driver was operating the bus of a charter-party carrier:

(1) The driver was operating the bus of a charter-party carrier when the charter-party carrier did not have a permit or certificate issued by the commission.

(2) The driver was operating the bus of a charter-party carrier when the charter-party carrier was operating the bus with a suspended permit or certificate from the commission.

(3) The driver was operating the bus of a charter-party carrier without having a current and valid driver's license of the proper class, a passenger vehicle endorsement, or the required certificate.

SEC. 2. Section 5387.3 is added to the Public Utilities Code, to read:

5387.3. (a) A charter-party carrier described in subdivision (c) of Section 5387, that has received a notice of refusal or revocation of its permit to operate, may submit to the commission,

within 15 days after the mailing of the notice, a written request for a hearing. The charter-party carrier shall furnish a copy of the request to the Department of the California Highway Patrol at the same time that it makes its request for a hearing to the commission. Failure to request a hearing, in writing, within the 15-day period is a waiver of the right to a hearing.

(b) Upon receipt by the commission of the hearing request, the commission shall hold a hearing within a reasonable time, not to exceed 21 days, and may appoint a hearing officer to conduct the hearing. At the hearing, the burden of proof is on the charter-party carrier to prove that it was not in violation of subdivision (c) of Section 5387.

(c) The refusal to, or revocation of, the permit to operate, may only be rescinded by the hearing officer if the charter-party carrier proves that it was not in violation of subdivision (c) of Section 5387, and that the basis of the refusal or revocation resulted from a factual error.

SEC. 3. Section 1803 of the Vehicle Code is amended to read:

1803. (a) (1) The clerk of a court in which a person was convicted of a violation of this code, was convicted of a violation of subdivision (a), (b), (c), (d), (e), or (f) of Section 655 of the Harbors and Navigation Code pertaining to a mechanically propelled vessel but not to manipulating any water skis, an aquaplane, or similar device, was convicted of a violation of Section 655.2, 655.6, 658, or 658.5 of the Harbors and Navigation Code, a violation of subdivision (a) of Section 192.5 of the Penal Code, or a violation of subdivision (b) of Section 5387 of the Public Utilities Code, was convicted of an offense involving use or possession of controlled substances under Division 10 (commencing with Section 11000) of the Health and Safety Code, was convicted of a felony offense when a commercial motor vehicle, as defined in subdivision (b) of Section 15210, was involved in or incidental to the commission of the offense, or was convicted of a violation of any other statute relating to the safe operation of vehicles, shall prepare within 5 days after conviction and immediately forward to the department at its office at Sacramento an abstract of the record of the court covering the case in which the person was so convicted. If sentencing is not pronounced in conjunction with the conviction, the abstract shall be forwarded to the department within 5 days after sentencing and

the abstract shall be certified by the person so required to prepare it to be true and correct.

(2) For the purposes of this section, a forfeiture of bail shall be equivalent to a conviction.

(b) The following violations are not required to be reported under subdivision (a):

(1) Division 3.5 (commencing with Section 9840).

(2) Section 21113, with respect to parking violations.

(3) Chapter 9 (commencing with Section 22500) of Division 11, except Section 22526.

(4) Division 12 (commencing with Section 24000), except Sections 24002, 24004, 24250, 24409, 24604, 24800, 25103, 26707, 27151, 27315, 27360, 27800, and 27801 and Chapter 3 (commencing with Section 26301).

(5) Division 15 (commencing with Section 35000), except Chapter 5 (commencing with Section 35550).

(6) Violations for which a person was cited as a pedestrian or while operating a bicycle or a motorized scooter.

(7) Division 16.5 (commencing with Section 38000), except Section 38301.3.

(8) Subdivision (b) of Section 23221, subdivision (b) of Section 23223, subdivision (b) of Section 23225, and subdivision (b) of Section 23226.

(c) If the court impounds a license, or orders a person to limit his or her driving pursuant to subdivision (d) of Section 40508, the court shall notify the department concerning the impoundment or limitation on an abstract prepared pursuant to subdivision (a) of this section or on a separate abstract, that shall be prepared within 5 days after the impoundment or limitation was ordered and immediately forwarded to the department at its office in Sacramento.

(d) If the court determines that a prior judgment of conviction of a violation of Section 23152 or 23153 is valid or is invalid on constitutional grounds pursuant to Section 41403, the clerk of the court in which the determination is made shall prepare an abstract of that determination and forward it to the department in the same manner as an abstract of record pursuant to subdivision (a).

(e) Within 5 days of an order terminating or revoking probation under Section 23602, the clerk of the court in which the order terminating or revoking probation was entered shall prepare and

immediately forward to the department at its office in Sacramento an abstract of the record of the court order terminating or revoking probation and any other order of the court to the department required by law.

SEC. 3.5. Section 1803 of the Vehicle Code is amended to read:

1803. (a) (1) The clerk of a court in which a person was convicted of a violation of this code, was convicted of a violation of subdivision (a), (b), (c), (d), (e), or (f) of Section 655 of the Harbors and Navigation Code pertaining to a mechanically propelled vessel but not to manipulating any water skis, an aquaplane, or similar device, was convicted of a violation of Section 655.2, 655.6, 658, or 658.5 of the Harbors and Navigation Code, or a violation of subdivision (a) of Section 192.5 of the Penal Code, or a violation of subdivision (b) of Section 5387 of the Public Utilities Code, was convicted of an offense involving use or possession of controlled substances under Division 10 (commencing with Section 11000) of the Health and Safety Code, was convicted of a felony offense when a commercial motor vehicle, as defined in subdivision (b) of Section 15210, was involved in or incidental to the commission of the offense, or was convicted of a violation of any other statute relating to the safe operation of vehicles, shall prepare within 5 days after conviction and immediately forward to the department at its office at Sacramento an abstract of the record of the court covering the case in which the person was so convicted. If sentencing is not pronounced in conjunction with the conviction, the abstract shall be forwarded to the department within 5 days after sentencing and the abstract shall be certified by the person so required to prepare it to be true and correct.

(2) For the purposes of this section, a forfeiture of bail shall be equivalent to a conviction.

(b) The following violations are not required to be reported under subdivision (a):

- (1) Division 3.5 (commencing with Section 9840).
- (2) Section 21113, with respect to parking violations.
- (3) Chapter 9 (commencing with Section 22500) of Division 11, except Section 22526.
- (4) Division 12 (commencing with Section 24000), except Sections 24002, 24004, 24250, 24409, 24604, 24800, 25103,

26707, 27151, 27315, 27360, 27800, and 27801 and Chapter 3 (commencing with Section 26301).

(5) Division 15 (commencing with Section 35000), except Chapter 5 (commencing with Section 35550).

(6) Violations for which a person was cited as a pedestrian or while operating a bicycle or a motorized scooter.

(7) Division 16.5 (commencing with Section 38000), except Sections 38301, 38301.3, 38301.5, 38304.1, and 38504.1.

(8) Subdivision (b) of Section 23221, subdivision (b) of Section 23223, subdivision (b) of Section 23225, and subdivision (b) of Section 23226.

(c) If the court impounds a license or orders a person to limit his or her driving pursuant to subdivision (d) of Section 40508, the court shall notify the department concerning the impoundment or limitation on an abstract prepared pursuant to subdivision (a) of this section or on a separate abstract, that shall be prepared within 5 days after the impoundment or limitation was ordered and immediately forwarded to the department at its office in Sacramento.

(d) If the court determines that a prior judgment of conviction of a violation of Section 23152 or 23153 is valid or is invalid on constitutional grounds pursuant to Section 41403, the clerk of the court in which the determination is made shall prepare an abstract of that determination and forward it to the department in the same manner as an abstract of record pursuant to subdivision (a).

(e) Within 5 days of an order terminating or revoking probation under Section 23602, the clerk of the court in which the order terminating or revoking probation was entered shall prepare and immediately forward to the department at its office in Sacramento an abstract of the record of the court order terminating or revoking probation and any other order of the court to the department required by law.

SEC. 4. Section 13369 of the Vehicle Code is amended to read:

13369. (a) This section applies to the following endorsements and certificates:

- (1) Passenger transportation vehicle.
- (2) Hazardous materials.
- (3) Schoolbus.
- (4) School pupil activity bus.
- (5) Youth bus.

- (6) General public paratransit vehicle.
- (7) Farm labor vehicle.
- (8) Vehicle used for the transportation of developmentally disabled persons.

(b) The department shall refuse to issue or renew, or shall revoke, the certificate or endorsement of any person who meets the following conditions:

(1) Within three years, has committed any violation that results in a conviction assigned a violation point count of two or more, as defined in Sections 12810 and 12810.5. The department may not refuse to issue or renew, nor may it revoke, a person's hazardous materials or passenger transportation vehicle endorsement if the violation leading to the conviction occurred in the person's private vehicle and not in a commercial motor vehicle, as defined in Section 15210.

(2) Within three years, has had his or her driving privilege suspended, revoked, or on probation for any reason involving unsafe operation of a motor vehicle. The department may not refuse to issue or renew, nor may it revoke, a person's passenger transportation vehicle endorsement if the person's driving privilege has, within three years, been placed on probation only for any reason involving unsafe operation of a motor vehicle.

(3) Notwithstanding paragraphs (1) and (2), does not meet the qualifications for issuance of a hazardous materials endorsement set forth in Parts 383, 384, and 1572 of Title 49 of the Code of Federal Regulations.

(c) The department may refuse to issue or renew, or may suspend or revoke, the certificate or endorsement of any person who meets any of the following conditions:

(1) Within 12 months, has been involved as a driver in three accidents in which the driver caused or contributed to the causes of the accidents.

(2) Within 24 months, as a driver, caused or contributed to the cause of an accident resulting in a fatality or serious injury or serious property damage in excess of seven hundred fifty dollars (\$750).

(3) Has violated any provision of this code, or any rule or regulation pertaining to the safe operation of a vehicle for which the certificate or endorsement was issued.

(4) Has violated any restriction of the certificate, endorsement, or commercial driver's license.

(5) Has knowingly made a false statement or failed to disclose a material fact on an application for a certificate or endorsement.

(6) Has been determined by the department to be a negligent or incompetent operator.

(7) Has demonstrated irrational behavior to the extent that a reasonable and prudent person would have reasonable cause to believe that the applicant's ability to perform the duties of a driver may be impaired.

(8) Excessively or habitually uses, or is addicted to, alcoholic beverages, narcotics, or dangerous drugs.

(9) Does not meet the minimum medical standards established or approved by the department.

(d) The department may cancel the certificate or endorsement of any driver who meets any of the following conditions:

(1) Does not have a valid driver's license of the appropriate class.

(2) Has requested cancellation of the certificate or endorsement.

(3) Has failed to meet any of the requirements for issuance or retention of the certificate or endorsement, including, but not limited to, payment of the proper fee, submission of an acceptable medical report and fingerprint cards, and compliance with prescribed training requirements.

(4) Has had his or her driving privilege suspended or revoked for a cause involving other than the safe operation of a motor vehicle.

(e) (1) The department shall refuse to issue or renew, or shall suspend or revoke, the passenger vehicle endorsement of a person who violates subdivision (b) of Section 5387 of the Public Utilities Code.

(2) A person found to be in violation of subdivision (b) of Section 5387 of the Public Utilities Code shall be ineligible for a passenger vehicle endorsement that would permit him or her to drive a bus of any kind, including, but not limited to, a bus, schoolbus, youth bus, school pupil activity bus, trailer bus, or a transit bus, with passengers, for a period of five years.

(f) (1) Reapplication following refusal or revocation under subdivision (b) or (c) may be made after a period of not less than one year from the effective date of denial or revocation, except in

cases where a longer period of suspension or revocation is required by law.

(2) Reapplication following cancellation under subdivision (d) may be made at any time without prejudice.

SEC. 5. Section 14602.9 is added to the Vehicle Code, to read:

14602.9. (a) An officer of the Department of the California Highway Patrol may impound a bus of a charter-party carrier for 30 days if the officer determines that any of the following violations occurred while the bus driver was operating the bus of a charter-party carrier:

(1) The driver was operating the bus of a charter-party carrier when the charter-party carrier did not have a permit or certificate issued by the Public Utilities Commission, pursuant to Section 5375 of the Public Utilities Code.

(2) The driver was operating the bus of a charter-party carrier when the charter-party carrier was operating the bus with a suspended permit or certificate from the Public Utilities Commission.

(3) The driver was operating the bus of a charter-party carrier without having a current and valid driver's license of the proper class, a passenger vehicle endorsement, or the required certificate.

(b) Within two working days after impoundment, the impounding agency shall send a notice by certified mail, return receipt requested, to the legal owner of the vehicle, at the address obtained from the department, informing the owner that the vehicle has been impounded. Failure to notify the legal owner within two working days shall prohibit the impounding agency from charging for more than 15 day's impoundment when the legal owner redeems the impounded vehicle. The impounding agency shall maintain a published telephone number that provides information 24 hours a day regarding the impoundment of vehicles and the rights of a registered owner to request a hearing.

(c) The registered and legal owner of a vehicle that is removed and seized under subdivision (a) or his or her agent shall be provided the opportunity for a storage hearing to determine the validity of, or consider any mitigating circumstances attendant to, the storage, in accordance with Section 22852.

(d) (1) The impounding agency shall release the vehicle to the registered owner or his or her agent prior to the end of the impoundment period under any of the following circumstances:

(A) When the vehicle is a stolen vehicle.

(B) When the vehicle is subject to bailment and is driven by an unlicensed employee of a business establishment, including a parking service or repair garage.

(C) When the driver of the vehicle is not the sole registered owner of the vehicle and the vehicle is being released to another registered owner of the vehicle who agrees not to allow the driver to use the vehicle until after the end of the impoundment period and the charter-party carrier has been issued a valid permit from the Public Utilities Commission, pursuant to Section 5375 of the Public Utilities Code.

(2) A vehicle shall not be released pursuant to this subdivision without presentation of the registered owner's or agent's currently valid driver's license to operate the vehicle and proof of current vehicle registration, or upon order of a court.

(e) The registered owner or his or her agent is responsible for all towing and storage charges related to the impoundment, and any administrative charges authorized under Section 22850.5.

(f) A vehicle removed and seized under subdivision (a) shall be released to the legal owner of the vehicle or the legal owner's agent prior to the end of the impoundment period if all of the following conditions are met:

(1) The legal owner is a motor vehicle dealer, bank, credit union, acceptance corporation, or other licensed financial institution legally operating in this state, or is another person who is not the registered owner and holds a security interest in the vehicle.

(2) The legal owner or the legal owner's agent pays all towing and storage fees related to the seizure of the vehicle. A lien sale processing fee shall not be charged to the legal owner who redeems the vehicle prior to the 10th day of impoundment. The impounding authority or any person having possession of the vehicle shall not collect from the legal owner of the type specified in paragraph (1), or the legal owner's agent, any administrative charges imposed pursuant to Section 22850.5 unless the legal owner voluntarily requested a poststorage hearing.

(3) (A) The legal owner or the legal owner's agent presents either lawful foreclosure documents or an affidavit of repossession for the vehicle, and a security agreement or title showing proof of legal ownership for the vehicle. All presented documents may be originals, photocopies, or facsimile copies, or may be transmitted

electronically. The impounding agency shall not require a document to be notarized. The impounding agency may require the agent of the legal owner to produce a photocopy or facsimile copy of its repossession agency license or registration issued pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code, or to demonstrate, to the satisfaction of the impounding agency, that the agent is exempt from licensure pursuant to Section 7500.2 or 7500.3 of the Business and Professions Code.

(B) Administrative costs authorized under subdivision (a) of Section 22850.5 shall not be charged to the legal owner of the type specified in paragraph (1), who redeems the vehicle unless the legal owner voluntarily requests a poststorage hearing. A city, county, or state agency shall not require a legal owner or a legal owner's agent to request a poststorage hearing as a requirement for release of the vehicle to the legal owner or the legal owner's agent. The impounding agency shall not require any documents other than those specified in this paragraph. The impounding agency shall not require any documents to be notarized.

(C) As used in this paragraph, "foreclosure documents" means an "assignment" as that term is defined in subdivision (o) of Section 7500.1 of the Business and Professions Code.

(g) (1) A legal owner or the legal owner's agent who obtains release of the vehicle pursuant to subdivision (f) may not release the vehicle to the registered owner of the vehicle or any agents of the registered owner, unless the registered owner is a rental car agency, until after the termination of the impoundment period.

(2) The legal owner or the legal owner's agent shall not relinquish the vehicle to the registered owner until the registered owner or that owner's agent presents his or her valid driver's license or valid temporary driver's license to the legal owner or the legal owner's agent. The legal owner or the legal owner's agent shall make every reasonable effort to ensure that the license presented is valid.

(3) Prior to relinquishing the vehicle, the legal owner may require the registered owner to pay all towing and storage charges related to the impoundment and any administrative charges authorized under Section 22850.5 that were incurred by the legal owner in connection with obtaining custody of the vehicle.

(h) (1) A vehicle removed and seized under subdivision (a) shall be released to a rental agency prior to the end of the impoundment period if the agency is either the legal owner or registered owner of the vehicle and the agency pays all towing and storage fees related to the seizure of the vehicle.

(2) The owner of a rental vehicle that was seized under this section may continue to rent the vehicle upon recovery of the vehicle. However, the rental agency shall not rent another vehicle to the driver of the vehicle that was seized until the impoundment period has expired.

(3) The rental agency may require the person to whom the vehicle was rented to pay all towing and storage charges related to the impoundment and any administrative charges authorized under Section 22850.5 that were incurred by the rental agency in connection with obtaining custody of the vehicle.

(i) Notwithstanding any other provision of this section, the registered owner, and not the legal owner, shall remain responsible for any towing and storage charges related to the impoundment, any administrative charges authorized under Section 22850.5, and any parking fines, penalties, and administrative fees incurred by the registered owner.

(j) The impounding agency is not liable to the registered owner for the improper release of the vehicle to the legal owner or the legal owner's agent provided the release complies with this section.

(k) For the purposes of this section, a "bus" means a bus as defined by Section 233 or a tour bus as defined by Section 612.

(l) For the purposes of this section, a "charter-party carrier" means a charter-party carrier as defined by Section 5360 of the Public Utilities Code.

SEC. 6. Section 3.5 of this bill incorporates amendments to Section 1803 of the Vehicle Code proposed by this bill and AB 134. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2010, (2) each bill amends Section 1803 of the Vehicle Code, and (3) this bill is enacted after AB 134, in which case Section 3 of this bill shall not become operative.

SEC. 7. This act shall become operative only if Assembly Bill No. 951 of the 2009–10 Regular Session is enacted and becomes operative on or before January 1, 2010.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2009

Governor