

**Introduced by Senator Hertzberg**

February 25, 2015

An act to add and repeal Section 42008.8 of the Vehicle Code, relating to vehicles.

legislative counsel's digest

SB 405, as amended, Hertzberg. ~~Vehicles: failure to appear or pay fine: suspension of driving privilege.~~ Vehicles: infraction and misdemeanor violations: amnesty.

Existing law requires a county to establish a one-time amnesty program for fines and bail due on or before January 1, 2009, for certain infraction or misdemeanor violations of the Vehicle Code and the Penal Code. Existing law allows a person owing a fine or bail that was eligible for amnesty under this program to pay 50% of the total fine or bail, as defined, which is required to be accepted by the court in full satisfaction of the delinquent fine or bail. Under existing law, the amnesty program was operative from January 1, 2012, until June 30, 2012.

This bill would, until January 1, 2018, require a county that establishes an amnesty program to allow a person owing a fine or bail that was due on or before January 1, 2013, to pay a specified percentage of the delinquent amount in full satisfaction of the fine or bail and to comply with guidelines promulgated by the Judicial Council. The bill would require the Department of Motor Vehicles to restore the driving privilege of a participant in the amnesty program whose driver's license was suspended for failure to appear in court or failure to pay a fine or bail, as specified. The bill would direct the Judicial Council to adopt guidelines for the amnesty program by March 1, 2016. The bill would

also require counties to file a report with the Judicial Council, for submission to the Legislature, regarding the number of cases resolved, the amount of money collected, and the operating costs of the amnesty program. The bill would state findings and declarations by the Legislature relative to these matters. By imposing these duties on counties, this bill would impose 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, 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.

~~Existing law authorizes the magistrate or clerk of a court to notify the Department of Motor Vehicles if any person has violated a written promise to appear or an order to appear, or willfully fails to pay a fine for a violation of specified provisions of the Vehicle Code. Existing law requires the department to suspend the driver's license of a person upon receipt of the above-described notice from the court that the person has violated a written promise to appear or willfully failed to pay a fine, if there are prior violations, as specified.~~

~~This bill would declare the intent of the Legislature to enact legislation to significantly reduce the number of persons who have their driver's license suspended and to establish a process for persons with a current suspension to get their driving privileges restored without first having to pay all court-ordered debt.~~

Vote: majority. 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. ~~(a)~~—The Legislature finds and declares all of the
- 2 following:
- 3 ~~(1)~~
- 4 (a) Driving in California is often described as a privilege, but
- 5 for millions of Californians it is an economic necessity. Each day
- 6 millions of Californians take to the road to go to work, drop off
- 7 their children at school and activities, go shopping, and visit family.
- 8 Without the ability to drive, millions of families cannot afford to

1 pay the cost of housing, pay utilities, put food on the table, afford  
 2 clothing for their children, or be able to save for retirement. In  
 3 short, driving is a fundamental need of virtually every person in  
 4 the state.

5 ~~(2)~~

6 (b) Unfortunately, millions of Californians have lost the ability  
 7 to drive legally. Their driver's licenses have been suspended, not  
 8 because they are a danger to public safety, but because they could  
 9 not pay fines associated with minor traffic tickets and other related  
 10 fees and assessments. In the past five years, the Department of  
 11 Motor Vehicles has suspended more than 2.7 million driver's  
 12 licenses for drivers' failure to appear in court or failure to make  
 13 payments ordered by a court. The Legislative Analyst's Office  
 14 reports that there is currently more than \$10 billion in  
 15 court-ordered, uncollected debt in California and \$8 billion of this  
 16 amount is for unpaid traffic violations.

17 ~~(3)~~

18 (c) For many families, a driver's license suspension is the  
 19 beginning of a descent into abject poverty for which there is no  
 20 escape. Legal services advocates report that once a person gets his  
 21 or her driver's license suspended in California, it is virtually  
 22 impossible for the driver's license to be restored until all the unpaid  
 23 fees, fines, and assessments are completely paid. Many people  
 24 with a suspended driver's license are low income and can only  
 25 pay the debt off a little at a time. Others are unemployed or on  
 26 public assistance and cannot afford to make any payments. The  
 27 State of New Jersey did a study of persons with suspended driver's  
 28 licenses and found that 42 percent lost their jobs after their driver's  
 29 licenses were suspended and less than ~~half~~ *one-half* of them were  
 30 able to find new jobs; 88 percent experienced a loss of income.

31 ~~(4)~~

32 (d) The original rationale for suspending driver's licenses was  
 33 to compel ~~persons~~ *a person* who had committed a serious public  
 34 safety violation to correct his or her behavior. This rationale over  
 35 time has been extended to hundreds of nonpublic safety violations.  
 36 As a report by the American Association of Motor Vehicle  
 37 Administrators (AAMVA), "Best Practices Guide to Reducing  
 38 Suspended Drivers" notes, all 50 states now suspend driver's  
 39 licenses for nonhighway safety reasons. The AAMVA report  
 40 recommends that states repeal laws that lead to driver's license

1 suspensions for nonpublic safety reasons and replace those  
2 suspensions with payment plans and wage garnishments to collect  
3 court-ordered debt.

4 ~~(b) It is the intent of the Legislature to enact legislation to~~  
5 ~~significantly reduce the number of persons who have their driver's~~  
6 ~~licenses suspended and to establish a process for persons with~~  
7 ~~current suspensions to get their driving privileges restored without~~  
8 ~~first having to pay all court-ordered debt.~~

9 *SEC. 2. Section 42008.8 is added to the Vehicle Code, to read:*

10 *42008.8. (a) A county that establishes a one-time amnesty*  
11 *program for fines and bail shall conduct the program in*  
12 *accordance with guidelines provided by the Judicial Council. The*  
13 *guidelines shall be adopted by March 1, 2016. Until the guidelines*  
14 *are adopted by the Judicial Council, each program shall initially*  
15 *be conducted in accordance with the Judicial Council's guidelines*  
16 *adopted pursuant to subdivision (f) of Section 42008.7.*

17 *(b) Unless agreed otherwise by the court and the county in*  
18 *writing, the government entities that are responsible for the*  
19 *collection of delinquent court-ordered debt shall be responsible*  
20 *for implementation of the amnesty program as to that debt,*  
21 *maintaining the same division of responsibility in place with*  
22 *respect to the collection of court-ordered debt under subdivision*  
23 *(b) of Section 1463.010 of the Penal Code.*

24 *(c) Commencing January 1, 2016, until January 1, 2018, each*  
25 *amnesty program shall accept, in full satisfaction of any eligible*  
26 *fine or bail, of which the due date for payment was on or before*  
27 *January 1, 2013, the following amounts:*

28 *(1) Eighty percent of the fine or bail if the person has income*  
29 *that exceeds 200 percent of the federal poverty level.*

30 *(2) Fifty percent of the fine or bail if the person has income that*  
31 *is greater than 150 percent of, but no more than 200 percent of,*  
32 *the federal poverty level.*

33 *(3) Twenty percent of the fine or bail if the person has income*  
34 *that is no more than 150 percent of the federal poverty level.*

35 *(d) Nothing in this section shall limit the court's ability to issue*  
36 *an earning withholdings order as described in Chapter 5*  
37 *(commencing with Section 706.101) of Division 2 of Title 9 of Part*  
38 *2 of the Code of Civil Procedure or to order the person to perform*  
39 *community services in lieu of paying the amounts specified in*  
40 *subdivision (c).*

1       (e) *The department shall restore the driving privilege of a*  
 2 *participant in the amnesty program whose driver's license was*  
 3 *suspended pursuant to Section 13365.*

4       (f) *The department shall provide a notice to each person whose*  
 5 *driver's license has been suspended pursuant to Section 13365*  
 6 *regarding his or her potential eligibility for the amnesty program.*  
 7 *The notice shall be provided in the languages specified in*  
 8 *subdivision (b) of Section 1632 of the Civil Code.*

9       (g) *No criminal action shall be brought against a person for a*  
 10 *delinquent fine or bail paid under the amnesty program.*

11       (h) *Each court or county implementing an amnesty program*  
 12 *shall file, not later than one year after establishing the program,*  
 13 *a written report with the Judicial Council, on a form approved by*  
 14 *the Judicial Council. The report shall include information about*  
 15 *the number of cases resolved, the amount of money collected, and*  
 16 *the operating costs of the amnesty program. The Judicial Council*  
 17 *shall submit a report to the Legislature summarizing the*  
 18 *information provided by each court or county. The report shall be*  
 19 *submitted in compliance with Section 9795 of the Government*  
 20 *Code.*

21       (i) *This section shall remain in effect only until January 1, 2018,*  
 22 *and as of that date is repealed, unless a later enacted statute, that*  
 23 *is enacted before January 1, 2018, deletes or extends that date.*

24       SEC. 3. *If the Commission on State Mandates determines that*  
 25 *this act contains costs mandated by the state, reimbursement to*  
 26 *local agencies and school districts for those costs shall be made*  
 27 *pursuant to Part 7 (commencing with Section 17500) of Division*  
 28 *4 of Title 2 of the Government Code.*