

AMENDED IN SENATE APRIL 1, 2002

SENATE BILL

No. 1725

Introduced by Senator Morrow

February 21, 2002

An act to amend ~~Section~~ *Sections 13370 and 13376* of the Vehicle Code, relating to driver certificates.

LEGISLATIVE COUNSEL'S DIGEST

SB 1725, as amended, Morrow. Vehicles: driver certificates: felony convictions.

Existing law requires the Department of Transportation to revoke, or deny an application for, a schoolbus or public paratransit driver certificate under specified circumstances, including commission of certain sex, alcohol, and drug offenses.

This bill would add conviction of a violent or serious felony to those circumstances.

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 amended*
2 *to read:*
3 13370. (a) The department shall deny or revoke a schoolbus,
4 school pupil activity bus, general public paratransit vehicle, youth
5 bus driver certificate, or a certificate for a vehicle used for the
6 transportation of developmentally disabled persons if any of the
7 following causes apply to the applicant or certificate holder:

- 1 (1) Has been convicted of any sex offense as defined in Section
2 44010 of the Education Code.
- 3 (2) Has been convicted, within the two years preceding the
4 application date, of any offense specified in Section 11361.5 of the
5 Health and Safety Code.
- 6 (3) Has failed to meet prescribed testing or training
7 requirements for certificate issuance.
- 8 (4) *Has been convicted of any violent felony listed in*
9 *subdivision (c) of Section 667.5 of the Penal Code or any serious*
10 *felony listed in subdivision (c) of Section 1192.7 of the Penal Code.*
- 11 (b) The department may deny, suspend, or revoke a schoolbus,
12 school pupil activity bus, general public paratransit vehicle, or
13 youth bus driver certificate, or a certificate for a vehicle used for
14 the transportation of developmentally disabled persons if any of
15 the following causes apply to the applicant or certificate holder:
 - 16 (1) Has been convicted of any crime specified in Section 44424
17 of the Education Code within the seven years preceding the
18 application date. This paragraph does not apply if denial is
19 mandatory.
 - 20 (2) Has committed any act involving moral turpitude.
 - 21 (3) Has been convicted of any offense, not specified in this
22 section and other than a sex offense, that is punishable as a felony,
23 within the seven years preceding the application date.
 - 24 (4) Has been dismissed as a driver for a cause relating to pupil
25 transportation safety.
 - 26 (5) Has been convicted, within the seven years preceding the
27 application date, of any offense relating to the use, sale,
28 possession, or transportation of narcotics, habit-forming drugs, or
29 dangerous drugs, except as provided in paragraph (3) of
30 subdivision (a).
- 31 (c) (1) Reapplication following denial or revocation under
32 subdivision (a) or (b) may be made after a period of not less than
33 one year from the effective date of denial or revocation.
- 34 (2) An applicant or holder of a certificate may reapply for a
35 certificate whenever a felony or misdemeanor conviction is
36 reversed or dismissed. A termination of probation and dismissal of
37 charges pursuant to Section 1203.4 of the Penal Code or a
38 dismissal of charges pursuant to Section 1203.4a of the Penal Code
39 is not a dismissal for purposes of this section.



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

3 13376. (a) The department shall revoke a schoolbus, school
4 pupil activity bus, youth bus, or general public paratransit driver
5 certificate, and shall deny an application for that certificate, for
6 any of the following causes:

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

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

15 (3) The applicant has, within the two years preceding the
16 application date, been convicted of any offense specified in
17 Section 11361.5 of the Health and Safety Code.

18 (4) The applicant has failed to meet the prescribed testing
19 requirements for issuance of the certificate.

20 (5) The applicant has been convicted of any violent felony
21 listed in subdivision (c) of Section 667.5 of the Penal Code or any
22 serious felony listed in subdivision (c) of Section 1192.7 of the
23 Penal Code.

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

37 (2) If an applicant receives a positive test result and has been
38 provided an opportunity to challenge the validity of the test, the
39 department shall deny the application for a certificate listed in



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

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

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

11 (c) (1) The department may temporarily suspend a schoolbus,
12 school pupil activity bus, youth bus, or general public paratransit
13 driver certificate, or temporarily withhold issuance of a certificate
14 to an applicant, if the holder or applicant is arrested for or charged
15 with any sex offense, as defined in Section 44010 of the Education
16 Code.

17 (2) Upon receipt of a notice of temporary suspension, or of the
18 department's intent to withhold issuance, of a certificate, the
19 certificate holder or applicant may request a hearing within 10
20 days of the effective date of the department's action.

21 (3) The department shall, upon request of the holder of, or
22 applicant for, a certificate, within 10 working days of the receipt
23 of the request, conduct a hearing on whether the public interest
24 requires suspension or withholding of the certificate pursuant to
25 paragraph (1).

26 (4) If the charge is dismissed or results in a finding of not guilty,
27 the department shall immediately terminate the suspension or
28 resume the application process, and shall expunge the suspension
29 action taken pursuant to this subdivision from the record of the
30 applicant or certificate holder.

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

37 (e) The determination of the facts pursuant to this section is a
38 civil matter which is independent of the determination of the
39 person's guilt or innocence, has no collateral estoppel effect on a



- 1 subsequent criminal prosecution, and does not preclude the
- 2 litigation of the same or similar facts in a criminal proceeding.

O

