

AMENDED IN SENATE MAY 7, 2002
AMENDED IN SENATE APRIL 23, 2002
AMENDED IN SENATE APRIL 1, 2002

SENATE BILL

No. 1725

Introduced by Senator Morrow

February 21, 2002

An act to amend ~~Sections 13370 and 13376~~ *Section 13370* 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 Motor Vehicles 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, as specified, to those circumstances. The bill would allow an applicant who has been convicted of a serious felony that is not also a violent felony to obtain a driver certificate if the applicant submits to the department evidence, as specified, that a court has found the applicant to be rehabilitated.

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:

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

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

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

15 (4) Has been convicted of any violent felony listed in
16 subdivision (c) of Section 667.5 of the Penal Code or any serious
17 felony listed in subdivision (c) of Section 1192.7 of the Penal
18 Code. This paragraph does not apply to an applicant who has been
19 convicted of a serious felony that is not also a violent felony if he
20 or she submits to the department either of the following:

21 (A) A certificate of rehabilitation issued pursuant to Section
22 4852.13 of the Penal Code.

23 (B) A finding of rehabilitation from the sentencing court of the
24 offense in question indicating that the applicant has proven, by
25 clear and convincing evidence, that he or she has been rehabilitated
26 for the purposes of schoolsite or other specified employment for
27 at least one year. If the offense in question occurred outside this
28 state, the person may seek a finding of rehabilitation from a court
29 in the county in which he or she is resident.

30 (b) The department may deny, suspend, or revoke a schoolbus,
31 school pupil activity bus, general public paratransit vehicle, or
32 youth bus driver certificate, or a certificate for a vehicle used for
33 the transportation of developmentally disabled persons if any of
34 the following causes apply to the applicant or certificate holder:

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



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

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

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

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

12 (c) (1) Reapplication following denial or revocation under
13 subdivision (a) or (b) may be made after a period of not less than
14 one year from the effective date of denial or revocation.

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

21 ~~SEC. 2. Section 13376 of the Vehicle Code is amended to~~
22 ~~read:~~

23 ~~13376. (a) The department shall revoke a schoolbus, school~~
24 ~~pupil activity bus, youth bus, or general public paratransit driver~~
25 ~~certificate, and shall deny an application for that certificate, for~~
26 ~~any of the following causes:~~

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

29 ~~(2) The applicant has, within the three years preceding the~~
30 ~~application date, either been convicted of a violation of Section~~
31 ~~20001, 23103, 23104, 23152, or 23153, or has had his or her~~
32 ~~driving privilege suspended, revoked, or placed on probation by~~
33 ~~the department for a cause involving the safe operation of a motor~~
34 ~~vehicle.~~

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

38 ~~(4) The applicant has failed to meet the prescribed testing~~
39 ~~requirements for issuance of the certificate.~~



1 ~~(5) The applicant or certificate holder has been convicted of~~
2 ~~any violent felony listed in subdivision (c) of Section 667.5 of the~~
3 ~~Penal Code or any serious felony listed in subdivision (c) of~~
4 ~~Section 1192.7 of the Penal Code. This paragraph does not apply~~
5 ~~to an applicant who has been convicted of a serious felony that is~~
6 ~~not also a violent felony if he or she submits to the department~~
7 ~~either of the following:~~

8 ~~(A) A certificate of rehabilitation issued pursuant to Section~~
9 ~~4852.13 of the Penal Code.~~

10 ~~(B) A finding of rehabilitation from the sentencing court of the~~
11 ~~offense in question indicating that the applicant has proven, by~~
12 ~~clear and convincing evidence, that he or she has been rehabilitated~~
13 ~~for the purposes of schoolsite or other specified employment for~~
14 ~~at least one year. If the offense in question occurred outside this~~
15 ~~state, the person may seek a finding of rehabilitation from a court~~
16 ~~in the county in which he or she is resident.~~

17 ~~(b) (1) The department shall revoke a certificate listed in~~
18 ~~subdivision (a), following an opportunity to challenge the validity~~
19 ~~of the testing described in this paragraph, for three years if the~~
20 ~~certificate holder has received a positive test result for a controlled~~
21 ~~substance, as specified in Part 382 (commencing with Section~~
22 ~~382.101) of Title 49 of the Code of Federal Regulations and~~
23 ~~Section 34520. However, the department shall not revoke a~~
24 ~~certificate under this paragraph if the certificate holder is in~~
25 ~~compliance with any rehabilitation or return to duty program that~~
26 ~~is imposed by the employer that meets the controlled substances~~
27 ~~and alcohol use and testing requirements set forth in Part 382~~
28 ~~(commencing with Section 382.101) of Title 49 of the Code of~~
29 ~~Federal Regulations.~~

30 ~~(2) If an applicant receives a positive test result and has been~~
31 ~~provided an opportunity to challenge the validity of the test, the~~
32 ~~department shall deny the application for a certificate listed in~~
33 ~~subdivision (a) for three years from the date of the confirmed~~
34 ~~positive test result.~~

35 ~~(3) The carrier that requested the test shall report the positive~~
36 ~~test result to the department not later than five days after receiving~~
37 ~~notification of the test result on a form approved by the~~
38 ~~department.~~

39 ~~(4) The department shall maintain a positive test result reported~~
40 ~~under paragraph (3) in the driving record of the applicant or~~



1 ~~certificate holder for three years from the date the department~~
2 ~~receives the report.~~

3 ~~(c) (1) The department may temporarily suspend a schoolbus,~~
4 ~~school pupil activity bus, youth bus, or general public paratransit~~
5 ~~driver certificate, or temporarily withhold issuance of a certificate~~
6 ~~to an applicant, if the holder or applicant is arrested for or charged~~
7 ~~with any sex offense, as defined in Section 44010 of the Education~~
8 ~~Code.~~

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

13 ~~(3) The department shall, upon request of the holder of, or~~
14 ~~applicant for, a certificate, within 10 working days of the receipt~~
15 ~~of the request, conduct a hearing on whether the public interest~~
16 ~~requires suspension or withholding of the certificate pursuant to~~
17 ~~paragraph (1).~~

18 ~~(4) If the charge is dismissed or results in a finding of not guilty,~~
19 ~~the department shall immediately terminate the suspension or~~
20 ~~resume the application process, and shall expunge the suspension~~
21 ~~action taken pursuant to this subdivision from the record of the~~
22 ~~applicant or certificate holder.~~

23 ~~(d) An applicant or holder of a certificate may reapply for a~~
24 ~~certificate whenever a felony or misdemeanor conviction is~~
25 ~~reversed or dismissed. A termination of probation and dismissal of~~
26 ~~charges pursuant to Section 1203.4 of the Penal Code or a~~
27 ~~dismissal of charges pursuant to Section 1203.4a of the Penal Code~~
28 ~~is not a dismissal for purposes of this section.~~

29 ~~(e) The determination of the facts pursuant to this section is a~~
30 ~~civil matter which is independent of the determination of the~~
31 ~~person's guilt or innocence, has no collateral estoppel effect on a~~
32 ~~subsequent criminal prosecution, and does not preclude the~~
33 ~~litigation of the same or similar facts in a criminal proceeding.~~

