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Transportation and Motor Vehicles

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Transportation and Motor Vehicles

Transportation and Motor Vehicles; violations—notice to appear

Penal Code § 853.6 (amended); Vehicle Code §§ 22348, 40202, 40500 (amended).

AB 1032 (Stirling); 1987 STAT. Ch. 72

Under existing law, any person arrested for a misdemeanor¹ or a nonfelony² violation of the California Vehicle Code³ who does not demand to be taken before a magistrate⁴ may be released⁵ by signing the notice to appear that is prepared by the arresting officer.⁶ Furthermore, if a vehicle⁷ is unattended during a parking violation, a peace officer⁸ or authorized person must issue a notice of the parking violation by attaching a copy of the notice to the car.⁹

1. Includes violations of any city or county ordinance. CAL. PENAL CODE § 853.6(a). *See id.* § 17 (definition of misdemeanor).

2. *See id.* § 17 (definition of a felony).

3. Includes violations of any city or county ordinances relating to traffic offenses. CAL. VEH. CODE § 40500(a).

4. CAL. PENAL CODE § 807 (definition of magistrate).

5. *See id.* § 853.6(i)(1)-(9) (circumstances when an officer is not required to release the arrestee). *See generally Review of Selected 1984 California Legislation*, 16 PAC. L.J. 628, 629 (arresting officer is required to release the person unless a specific statutory condition exists).

6. CAL. PENAL CODE § 853.6(a); CAL. VEH. CODE § 40500(a). If the crime committed could be charged either as a felony or a misdemeanor, the crime is deemed a felony for the imposition of sentencing. 58 Op. Att'y Gen. 886, 886 (1975). If the arrest is made under the California Penal Code, the notice must be prepared in duplicate and contain the name and address of the arrestee, the offense charged, and the time and place where the person must appear. CAL. PENAL CODE § 853.6. If the arrest is made under the California Vehicle Code, the notice must be prepared in triplicate and contain the name and address of the arrestee, the license number of the vehicle, the name and address of the registered owner if available, the offense charged, and the time and place where the arrestee must appear. CAL. VEH. CODE § 40500(a). *See People v. Larocca*, 143 Cal. App. 3d Supp. 22, 24, 192 Cal. Rptr. 624, 625 (1983) (notice to appear provisions of California Penal Code section 853.6 do not apply to cases where the arrestee is released on bail). *See also* 69 Op. Att'y Gen. 139, 140 (1986) (a person arrested for a misdemeanor pursuant to a warrant may not be released on a promise to appear).

7. CAL. VEH. CODE § 670 (definition of vehicle).

8. *Id.* § 40600(e) (definition of peace officer).

9. *Id.* § 40202. The notice must set forth the vehicle license number, the registration expiration date, the vehicle color and if possible the make of the vehicle. *Id.*

Chapter 72 requires any officer or other person to file¹⁰ the notice to appear or the notice of parking violation, and provides that any person or officer who causes the alteration, concealment, modification, nullification, or destruction of the remaining copy of the notice retained by the officer is guilty of a misdemeanor.¹¹

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10. Under the California Penal Code, citations, other than infractions, must be filed with the prosecuting attorney unless the prosecuting attorney requests the citation be filed with a magistrate. CAL. PENAL CODE § 853.6(e)(2),(3). All infraction citations must be filed with a magistrate. *Id.* § 853.6(e)(1). Under the California Vehicle Code, the citation must be filed with the magistrate and superior of the arresting officer. CAL. VEH. CODE § 40506.

11. CAL. PENAL CODE § 853.6(j); CAL. VEH. CODE §§ 40202(c), 40500(d). If after the notice is issued, the issuing officer determines that the charges should be dismissed in the interest of justice, the issuing agency may recommend to the magistrate that the charges be dismissed. *Id.* The recommendation must cite the reasons for the recommendation, and under no circumstances may a personal relationship with any officer, public official or law enforcement agency be grounds for dismissal. *Id.*

Transportation and Motor Vehicles; odometers

Vehicle Code § 28053 (new).

AB 560 (Frizzelle); 1987 STAT. Ch. 130

Prior law required any person who repaired or replaced the odometer of certain vehicles¹ to report specified information² to the Department of Motor Vehicles (Department).³ Chapter 130 deletes the requirement of notifying the Department and prescribes new procedures for indicating that an odometer has been serviced, repaired or replaced.⁴ If the odometer is incapable of registering the same mileage as before the service, the odometer must be adjusted to zero and a written notice must be attached to the left door frame of the vehicle

1. 1971 Cal. Stat. ch. 260, sec. 6, at 419 (repealed by 1987 Cal. Stat. ch. 130, sec. 1, at ___) (vehicle under 6001 pounds of manufacturer's maximum gross vehicle weight).

2. *Id.* The report was required to include: (1) The name of the person for whom the work was performed; (2) a description of the vehicle; (3) whether the odometer was repaired or replaced; (4) mileage at the start of the work; and (5) mileage upon completion of the work. *Id.*

3. *Id.*

4. 1987 Cal. Stat. ch. 130, sec. 1, at ___ (repealing CAL. VEH. CODE § 28053). *Compare id.* (California odometer repair requirements) with 15 U.S.C. § 1987 (1976) (federal law concerning odometer repair and replacement is identical to Chapter 130).

stating the mileage prior to service, whether the odometer was repaired or replaced, and the date of service.⁵ Finally, Chapter 130 establishes criminal liability for any person who, with the intent to defraud, removes or alters the affixed notice, fails to make the required adjustments, or fails to attach the written notice of odometer service.⁶

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5. CAL. VEH. CODE § 28053(a) (no notice is required if the mileage indicated on the serviced odometer remains the same as before the service).

6. *Id.* § 28053(b), (c) (a violation is an infraction). *See id.* § 40000.1 (any violation of the California Vehicle Code is an infraction unless otherwise provided). *See also* People v. Oppenheimer, 42 Cal. App. 3d Supp. 4, 7, 116 Cal. Rptr. 795, 797 (1974) (provides a clarification of California Vehicle Code section 40000.1).

Transportation and Motor Vehicles; Youthful Drunk Driver Visitation Program Act

Vehicle Code §§ 23145, 23145.2, 23145.3, 23145.5, 23145.6, 23145.8, 23146, 23147 (new).

AB 1400 (Duplissea); 1987 STAT. Ch. 166

Under existing law, persons convicted of operating a motor vehicle while addicted to, or under the influence of, any alcoholic beverage or drug, may be granted probation if certain minimum terms and conditions are imposed.¹ Pursuant to Chapter 166, the Youthful Drunk Driver Visitation Program Act², the court may order the defendant³ to participate in the Youthful Drunk Driver Visitation Program (Program) as a term and condition of probation in addition to any other term and condition required.⁴ The court may require

1. *See* CAL. VEH. CODE §§ 23152 (prohibition of driving while under the influence of alcohol or drugs), 23160 (penalties for violation), 23161 (conditions of probation). *See also id.* § 23206 (additional conditions of probation).

2. *See id.* § 23145 (these provisions will be known as the Youthful Drunk Driver Visitation Program Act).

3. The court must give preference for participation in the program to defendants who were at least 18 years of age but less than 21 years of age at the time of the offense. *Id.* § 23145.5(b).

4. *Id.* § 23145.5(a). The consent of the defendant is necessary. *Id.* In addition, the court must require that the defendant not drink any alcoholic beverages *at all* before reaching the

supervised visitation by the defendant to all, or any, of the following: (1) A trauma facility⁵ that regularly receives victims of vehicle accidents involving drinking drivers;⁶ (2) a facility that cares for advanced alcoholics in the terminal stages of alcoholism or drug abuse;⁷ and (3) the county coroner's office or the county morgue to observe victims of accidents involving drinking drivers.⁸ Furthermore, the program may include a personal conference after the visitation between the sentencing judge and the defendant to discuss the visitation experience and how that experience may impact the defendant's future conduct.⁹

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age of 21 years. *Id.* § 23145.5(c). The program was enacted in recognition that (1) young drivers often do not realize the consequences of ingesting alcohol or drugs and operating a motor vehicle while their physical capabilities are impaired; (2) young drivers who use alcohol or drugs may become dependent on those substances and prompt intervention is needed to protect other persons, as well as young drivers who use alcohol or other drugs, from death or serious injury; (3) the conviction of a young driver for driving under the influence of alcohol or drugs identifies that person as a risk to the health and welfare of others; and (4) close observation of the effects on others of alcohol and other drugs by a young driver convicted of driving under the influence has a marked effect on recidivism. *See id.* § 23145.2 (legislative findings).

5. CAL. HEALTH & SAFETY CODE § 1798.160(b) (definition of trauma facility).

6. Visitation to a designated base hospital or a general acute care hospital having a basic emergency medical services permit is also acceptable. CAL. VEH. CODE § 23145.8(a)(1). *See* CAL. HEALTH & SAFETY CODE § 1798.100 (designation of base hospitals). *See also id.* § 1277(c) (issuance of basic emergency medical services permits).

7. *See id.* § 1250.3 (definition of chemical dependency recovery hospital).

8. CAL. VEH. CODE § 23145.8. The county, a court, any facility visited, the agents, employees, or independent contractors of the county, court, or facility visited, and any person supervising a defendant during the visitation, is not liable for any injury to or damage caused by the defendant during the visitation, except for willful or grossly negligent acts intended to or reasonably expected to result in that injury or damage. *Id.* § 23147.

9. *Id.* § 23146(a). If a personal conference is impracticable, a written report or letter by the defendant discussing the visitation experience is required. *Id.* § 23146(b).

Transportation and Motor Vehicles; vessels—throwing of objects

Harbors and Navigation Code § 654.5 (new).
SB 744 (Marks); 1987 STAT. Ch. 216

Under existing law, any person who throws any object at a vessel¹ resulting in vandalism² or a battery³ is guilty of either a misdemeanor or a felony.⁴ Chapter 216 provides that any person⁵ who maliciously throws any object⁶ at a vessel or any occupant of the vessel, and does not commit a battery or vandalism, is guilty of a misdemeanor.⁷

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1. CAL. HARB. & NAV. CODE § 651(c) (definition of vessel).
 2. CAL. PENAL CODE § 594(a) (definition of vandalism).
 3. *Id.* § 242 (definition of battery).
 4. *Id.* § 594(b) (penalty for vandalism), § 243 (punishment for battery).
 5. *Id.* § 651(j) (definition of person).
 6. *Id.* § 654.5 (includes hurling or projecting by manual, mechanical, or other means).
 7. *Id.* § 654.5. Upon a first conviction the punishment is a fine not to exceed \$100 or imprisonment not to exceed 30 days, or both. *Id.* Upon a second or subsequent conviction, the punishment is a fine not to exceed \$250 or imprisonment not to exceed 60 days, or both. *Id.*

Transportation and Motor Vehicles; animal restraints

Vehicle Code §§ 23117, 42001.4 (new).
AB 128 (O'Connell); 1987 STAT. Ch. 224

Existing law prohibits the transportation of an unaccompanied minor¹ in the back of motortrucks.² Chapter 224 prohibits³ a driver of a motor vehicle⁴ from transporting any animal in the vehicle's

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1. CAL. VEH. CODE § 23116 (under the age of 12 years).
 2. *Id.*
 3. *Id.* § 42001.4 (violation of Chapter 224 is punishable (1) by a fine not less than \$50 or more than \$100; or (2) for a second infraction within one year, a fine not less than \$75 or more than \$200; or (3) a fine not less than \$100 or more than \$250 for a third or subsequent infraction occurring within one year).
 4. *Id.* § 415 (definition of a motor vehicle).

road space⁵ on a highway⁶ unless the animal is secured in a specified manner.⁷ The restraint requirements provided by Chapter 224 do not apply to: (1) The transportation of livestock; (2) the transportation of a dog whose owner either owns or is employed by a ranching or farming operation while on a rural road; (3) traveling to or from a livestock auction; or (4) the transportation of a dog for ranching or farming purposes.⁸

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5. *Id.* § 23117(a) (the back of the vehicle in a space intended for any load).

6. *Id.* § 360 (definition of highway). *But see id.* § 592 (roads not included within the definition of highway).

7. *Id.* § 23117(a). The animal must be secured in either (1) an enclosed space, (2) a space which has side and tail racks at least 46 inches high, (3) a vehicle equipped with the means of preventing the animal from being discharged, (4) a cross tether attached to the vehicle, or (5) a secured container or cage. *Id.*

8. *Id.* § 23117(b).

Transportation and Motor Vehicles; abandoned vehicles— impounding

Vehicle Code §§ 22651.7, 22655.5 (new).

AB 568 (Zeltner); 1987 STAT. Ch. 279

AB 1344 (Polanco); 1987 STAT. Ch. 359

Under existing law, a peace officer¹ may not remove or store² any unattended vehicle from a highway or garage except in specific instances.³ Chapter 279 creates an exception to existing law if the

1. See CAL. PENAL CODE § 830 (definition of peace officer).

2. Remove and store a vehicle means that the peace officer may cause the removal of a vehicle to, and storage of a vehicle in, a private lot where the vehicle may be secured by the vehicle owner or by the owner's representative. CAL. VEH. CODE § 22651.7.

3. *Id.* §§ 22650-22671. Peace officers may remove and store vehicles where the vehicle: (1) Creates an obstruction or hazard to traffic; (2) is reported stolen; (3) blocks a driveway; (4) blocks a fire hydrant; (5) has been on a freeway right of way for more than 4 hours and cannot move independently; (6) operator is incompetent; (7) operator is arrested; (8) lacks current California registration and has received 5 or more parking violations; (9) is parked illegally and there is no evidence of registration; (10) is in violation of a local ordinance; (11) is parked on private property where a sign warns of towing; (12) alarm has been emitting noise for 45 minutes; (13) is parked in a handicapped zone without authorization; (14) is believed to be involved in a hit and run accident; (15) is parked within 7.5 feet of any railroad track; or (16) is parked in a common interest development without authorization. *Id.*

peace officer pursues a fleeing person who has abandoned their vehicle, or if the police officer has probable cause to believe that the vehicle was used to commit a public offense.⁴ Chapter 359 provides for the removal and storage of a vehicle to be used as evidence.⁵ If a vehicle contains evidence of the commission of a crime and the evidence is not readily removable, Chapter 359 allows the vehicle to be removed or stored.⁶

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4. *Id.* §§ 22651.7, 22655.5(a), (b). No lien attaches to the vehicle unless used with the express or implied permission of the owner. *Id.* § 22655.5(c).

5. *Id.* § 22655.5(b). In prosecuting a crime, the perpetrator may be required to pay the cost of towing and storage of the vehicle. *Id.* § 22655.5(d).

6. *Id.* § 22655.5(b).

Transportation and Motor Vehicles; right-of-way

Vehicle Code § 21804 (amended).

AB 797 (Duplissea); 1987 STAT. Ch. 284

Existing statutory law requires the driver of a vehicle¹ about to enter or cross a highway² to yield the right-of-way to all approaching traffic.³ Existing case law permits a driver to enter or cross a highway as long as there is no vehicle close enough to constitute an immediate hazard.⁴ Chapter 284 requires a driver entering or crossing a highway to yield the right-of-way only to traffic approaching so closely as to constitute an immediate hazard until the driver can proceed with reasonable safety.⁵ Under Chapter 284, once the driver proceeds to

1. CAL. VEH. CODE § 670 (definition of vehicle).

2. *Id.* § 360 (definition of highway).

3. *Id.* § 21804. *See id.* § 620 (traffic includes a pedestrian, ridden animal, vehicle, street car, and any other conveyance using a highway for purposes of travel).

4. *See, e.g.,* *Malone v. Perryman*, 226 Cal. App. 2d 227, 234, 37 Cal. Rptr. 864, 868 (1964) (driver on a highway may not proceed blindly in disregard of an obvious danger when approaching a marked crossing with signals and flagmen which signify the presence of earthmoving equipment on an intersecting construction road); *Pandell v. Hischer*, 166 Cal. App. 2d 693, 695, 333 P.2d 762, 763 (1959) (driver on a highway must yield if the driver does not present an immediate hazard to a driver entering from a private road).

5. CAL. VEH. CODE § 21804(a).

enter or cross the highway, all approaching vehicles must yield the right-of-way to the entering driver.⁶

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6. *Id.* § 21804(b).

Transportation and Motor Vehicles; vessel liens and intoxication on foreign vessels

Harbors and Navigation Code § 63 (repealed); §§ 62.8, 308, 502, 503, 522, 651, 651.5, 655, 658, 663, 677 (amended).
AB 885 (Mojonnier); 1987 STAT. Ch. 745

Existing law permits the creation of a lien to secure compensation for storage or servicing of a vessel.¹ Existing law requires the lien claimant to give the registered owner of the vessel actual notice of a lien.² Chapter 745 further requires the lien claimant to notify the registered owner that the vessel is subject to sale.³ Additionally, at the time the lien claimant requests a sale, Chapter 745 requires the Department of Motor Vehicles to apply a registration stop order or title transfer order.⁴

Existing law prohibits the operation of any vessel or manipulation of waterskis, an aquaplane, or other device in a reckless or negligent manner.⁵ Additionally, operation of a vessel, or manipulation of waterskis or an aquaplane while under the influence of drugs or alcohol is prohibited by existing law.⁶ Chapter 745 permits enforcement of these prohibitions against foreign vessels in waters subject to state jurisdiction.⁷

1. CAL. HARB. & NAV. CODE § 502(a). *See id.* § 501(e) (definition of vessel).

2. *Id.* § 502(b) (lien must exceed \$750).

3. *Id.* (lien must exceed \$1500).

4. CAL. HARB. & NAV. CODE § 503(b)(3). Chapter 745 requires the Department of Motor Vehicles to provide persons registering vessels less than 65 feet in length a copy of the guidelines for safe vessel operation. *Id.* § 651.5.

5. *Id.* § 655(a). Chapter 745 adds a definition of "waterskis, aquaplane, or similar device." *Id.* § 651(t).

6. *Id.* § 655(b)-(e).

7. *Id.* § 655(i).

Prior law permitted peace officers⁸ to stop and board vessels without probable cause to enforce the provisions of the Harbor and Navigations Code.⁹ Under Chapter 745, probable cause to believe that a violation of state laws¹⁰ has occurred must exist before peace officers are permitted to stop and board a vessel.¹¹

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8. *Id.* § 663 (peace officers of the state or political subdivisions of the state).

9. 1970 Cal. Stat. ch. 1428, sec. 43, at 2750 (amending CAL. HARB. & NAV. CODE § 663). *But cf.* CAL. ADMIN. CODE tit. 14, § 6550.5(c) (1986) (requires probable cause).

10. CAL. HARB. & NAV. CODE § 663 (or regulations or local ordinances).

11. *Id.* See also 68 Op. Att'y Gen. 42, 44 (opinion permitting arrest of persons for violation of statutes or ordinances committed in the presence of marine safety personnel).

Transportation and Motor Vehicles; All-terrain vehicles

Vehicle Code §§ 111, 111.3, 111.5, 11100.1, 11103.1, 11104.3, 11104.6, 11105.6, 38500, 38500.1, 38501, 38502, 38503, 38504, 38505, 38506 (new); §§ 11102, 11105.1, 11105.2, 11105.3, 11106, 11107, 11108, 11108.5, 11110, 11110.2, 11110.5, 11111, 11111.5, 11116 (amended).*

AB 781 (Allen); 1987 STAT. CH. 881

Chapter 881 creates the Off-Highway Vehicle Safety Education Committee,¹ with responsibilities including the development of criteria for certification² of all-terrain vehicle (ATV)³ safety training organizations.⁴ Under Chapter 881, ATV safety training organizations and

* Sections 11100.1, 11102, 11103.1, 11104.3, 11104.6, 11105.1, 11105.2, 11105.3, 11105.6, 11106, 11107, 11108, 11108.5, 11110, 11110.2, 11110.5, 11111, 11111.5, 11116 of Chapter 881 become effective on July 1, 1988.

1. CAL. VEH. CODE § 38500 (the Off-Highway Safety Education Committee consists of the Commissioner of the California Highway Patrol, the Deputy Director of Parks and Recreation for Off-Highway Vehicles, the Director of Motor Vehicles, and a member of the Off-Highway Motor Vehicle Recreation Commission).

2. Criteria for certification must include curriculum and materials for training all-terrain vehicle (ATV) safety, training instructors to teach ATV operation and safety, and responsible use of off-highway vehicles. *Id.* § 38500.1(a).

3. *Id.* § 111 (definition of all-terrain vehicle).

4. *Id.* § 38500.1(a) (certified ATV safety training organization must be licensed by the Department of Motor Vehicles). See *id.* § 111.5 (definition of ATV safety training organization). The Off-Highway Vehicle Safety Education Committee will recommend an ATV safety training

safety instructors⁵ are subject to the same regulations as motor vehicle driving schools and instructors.⁶ Chapter 881 specifies that an ATV safety certificate must be awarded to any person who successfully completes a course of instruction in ATV operation and safety.⁷

Chapter 881 prohibits the operation of an ATV by a minor⁸ on public lands unless the minor: (1) Has a safety certificate from a licensed ATV safety training organization; (2) is taking a prescribed safety training course from a licensed ATV safety training organization; or (3) is under the direct supervision of an adult who possesses a safety certificate.⁹ Chapter 881 also requires minors under age fourteen to be under the direct supervision of a parent or guardian when operating an ATV.¹⁰ Under Chapter 881, persons under fifteen and one-half years of age are not permitted to operate an ATV without a safety helmet.¹¹ In addition, Chapter 881 prohibits ATV operators from carrying passengers while on public lands.¹²

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organization for licensing if the organization's program meets the minimum criteria for certification. *Id.* § 38500.1(b).

5. *Id.* § 111.3 (definition of ATV safety instructor). *See id.* § 11104.3(a) (qualifications for an ATV safety instructor). ATV safety training organizations are required to maintain records for all safety instructors authorized to offer the organization's course of instruction. *Id.* § 11108(d).

6. *Id.* §§ 11102, 11105.1, 11105.2, 11108, 11110, 11111.5 (these provisions take effect July 1, 1988). *See id.* §§ 11105.3, 11106, 11107, 11108.5, 11110.2, 11110.5, 11111, 11116 (references to "driving" removed in order to permit statutes to apply to ATV safety training organizations and instructors). Existing law requires motor vehicle driving schools to record the driver's license number or instruction permit number of persons receiving driving instructions at the school. *Id.* § 11108. Chapter 881 exempts ATV safety training organizations from these requirements. *Id.* § 11108(a)(3). Chapter 881 requires ATV safety instructors to give a 30 day minimum advance notice to the ATV safety training organization before providing a course of instruction. *Id.* § 11108(e). ATV safety training organizations must maintain bodily injury and property damage insurance for the organization, instructors, and students. *Id.* § 11103.1.

7. *Id.* § 38501(a). The instruction must be given by a licensed ATV safety instructor sponsored by an ATV safety training organization. *Id.* § 11100.1.

8. *Id.* § 17700 (minor is a person under age 18).

9. *Id.* § 38503 (enforcement to begin January 1, 1990).

10. *Id.* § 38504 (or accompanied by, and under the direct supervision of, an adult authorized by the parent or guardian). Enforcement is to begin January 1, 1990. *Id.*

11. *Id.* § 38505 (helmet must meet U.S. Department of Transportation standards). Enforcement is to begin January 1, 1990. *Id.*

12. *Id.* § 38506 (enforcement to begin January 1, 1990).

Transportation and Motor Vehicles; suspension of driver's license for failure to maintain financial responsibility

Vehicle Code § 16072 (amended).

SB 1173 (Robbins); 1987 STAT. Ch. 903

Existing law requires the suspension of a person's driving privilege for failure to provide proof of financial responsibility¹ after an accident.² Prior law required that the suspension³ be terminated if the person's driving privilege is also suspended for failure to pay a judgment arising from the same accident.⁴ Under prior law, the Department of Motor Vehicles may suspend the license or reimpose the license suspension for failure to provide proof of financial responsibility if the license suspension for non-payment of a judgment is set aside.⁵ Chapter 903 provides that suspension of the driving privilege for failure to provide proof of financial responsibility will terminate after one year if the license is suspended for non-payment of a judgment, but may be reimposed if the suspension for non-payment of a judgment is terminated.⁶

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1. CAL. VEH. CODE § 16430 (proof of ability to respond to damages).

2. *Id.* § 16070.

3. Suspension for failure to provide proof of financial responsibility after an accident. 1985 Cal. Stat. ch. 1494, sec. 2, at ____ (amending CAL. VEH. CODE § 16072(b)).

4. *Id.* See CAL. VEH. CODE §§ 16070 (requires suspension of driver's license for failure to provide proof of financial responsibility after an accident), 16370 (suspension of driving privilege upon receipt of a certified copy of a judgment and a certificate of facts indicating that the person has failed for a period of 30 days to satisfy a judgment), 16381 (suspension of driving privileges for failure to pay judgment or installment of judgment).

5. 1985 Cal. Stat. ch. 1494, sec. 2, at ____ (amending CAL. VEH. CODE § 16072(b)).

6. CAL. VEH. CODE § 16072(b).

Transportation and Motor Vehicles; charter boat safety

Harbors and Navigation Code § 655.4 (new); §§ 668, 773.7, 773.8, 774.2, 774.3 (amended).

SB 755 (Marks); 1987 STAT. Ch. 910

Existing law prohibits any person¹ from operating a vessel² while under the influence of drugs³ or alcohol.⁴ Chapter 910 prohibits any person from serving as a crew member on a charter boat⁵ while under the influence of drugs or alcohol.⁶

Existing law requires the operator of a charter boat to orient passengers as to emergency procedures, including the use of life preservers.⁷ Chapter 910 expands existing law by requiring the operator of a charter boat to provide a formal safety briefing⁸ for all passengers at the beginning of each trip.⁹ On trips between December and April of each year, prior law required charter boat operators to inform adult passengers that life jackets would be provided upon request.¹⁰ Chapter 910 mandates that charter boat operators inform adult passengers on all trips that life jackets are available upon request.¹¹ Chapter 910 also requires operators of charter vessels to use reasonable care in securing objects which may cause injury to passengers.¹²

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1. CAL. HARB. & NAV. CODE § 651(j) (definition of person).
 2. *Id.* § 651(c) (definition of vessel).
 3. *Id.* § 651(s) (definition of drug).
 4. *Id.* § 655(b) (prohibition also applies to a combination of drugs and alcohol).
 5. *Id.* § 773.2(b) (definition of charter boat).
 6. *Id.* § 655.4(a) (prohibition applies to a combination of drugs and alcohol). *See id.* § 668(d) (prescribed penalty for violation).
 7. *Id.* § 773.7. *See id.* § 773.2(f) (definition of life preserver).
 8. *Id.* § 773.7 (a public announcement describing the stowage location of life preservers, the type and location of all lifesaving devices, the location and contents of the emergency check-off list as prescribed in title 46 of the Code of Federal Regulations, section 185.25-1, and a demonstration of the proper use of life preservers).
 9. CAL. HARB. & NAV. CODE § 773.7.
 10. 1983 Cal. Stat. ch. 1049, sec. 1, at 5565 (enacting CAL. HARB. & NAV. CODE § 773.8).
 11. CAL. HARB. & NAV. CODE § 773.8(a).
 12. *Id.* § 773.8(b).

Transportation and Motor Vehicles; motor vehicle subleasing

Civil Code § 3343.5 (new); Penal Code §§ 570, 571, 572, 573, 574 (new).

AB 2275 (Frazee); 1987 STAT. Ch. 1072

Existing law regulates the leasing of motor vehicles¹ and conditional sales contracts² for motor vehicles.³ Chapter 1072 imposes regulations on the subleasing of motor vehicles.⁴ Pursuant to Chapter 1072, a person⁵ is guilty of illegally subleasing a motor vehicle if all of the following conditions are met: (1) The vehicle is subject to a lease contract,⁶ conditional sales contract, or security agreement⁷ that prohibits the transfer or assignment of any right or interest in the vehicle or under the contract or agreement; (2) the person is not a party to the lease contract, conditional sales contract, or security agreement; (3) the person transfers or assigns, or attempts to transfer or assign, any right or interest in the motor vehicle or under the contract or agreement to a person who is not a party to the contract or agreement; (4) the person does not obtain written consent to a transfer or assignment from the lessor,⁸ seller,⁹ or secured party¹⁰ of the vehicle; and (5) the person receives consideration for a transfer or assignment.¹¹ In addition, Chapter 1072 prohibits any person not a party to the lease contract, conditional sales contract, or security agreement, to assist, cause, or arrange an actual or purported transfer or assignment of any interest in a motor vehicle.¹²

1. CAL. CIV. CODE § 2985.7(a) (definition of motor vehicle).

2. *Id.* § 2981(a) (definition of conditional sale contract).

3. *See id.* §§ 2985.7-2990 (Vehicle Leasing Act); *id.* §§ 2981.7-2984.2 (Automobile Sales Finance Act).

4. CAL. PENAL CODE §§ 570-574.

5. *Id.* § 574(f) (definition of person).

6. *Id.* § 574(d) (definition of lease contract); *see* CAL. CIV. CODE § 2985.7(d).

7. CAL. PENAL CODE § 574(h) (definition of security agreement); *see* CAL. COMM. CODE § 9105(1)(l).

8. CAL. CIV. CODE § 2985.7(b) (definition of lessor).

9. CAL. PENAL CODE § 574(i) (definition of seller). *See* CAL. CIV. CODE § 2981(b).

10. CAL. PENAL CODE § 574(h) (definition of secured party). *See* CAL. COMM. CODE § 9105(1)(m).

11. CAL. PENAL CODE § 571(a).

12. *Id.* § 571(b). Any transfer or assignment by a party to the lease contract, conditional sales contract, or security agreement is not an act of unlawful subleasing and is not subject to prosecution. *Id.* § 572(a). A person convicted of the unlawful subleasing of a vehicle will be punished by a maximum of one year in prison, a maximum \$10,000 fine, or both. *Id.* § 570.

Chapter 1072 also permits specified persons¹³ who suffer damage proximately caused by an act of unlawful motor vehicle subleasing to bring a civil action against the person who engaged in the unlawful act.¹⁴

JMA

13. The persons specified include: (1) A seller, secured party, or buyer under a conditional sales contract or security agreement; (2) a lender or purchaser under a direct loan agreement; (3) a lessor or lessee under a lease contract; and (4) an actual or purported transferee or assignee of any right or interest of a buyer, purchaser, or lessee. CAL. CIV. CODE § 3343.5(a).

14. *Id.* The court may award actual or punitive damages, attorney's fees and costs, and equitable relief including, but not limited to, an injunction and restitution of money and property. *Id.* § 3343.5(b).

Transportation and Motor Vehicles; cellular telephone rental—use instructions

Vehicle Code § 28090 (new).

SB 347 (Rosenthal); 1987 STAT. Ch. 1306

Existing law provides that every person renting a motor vehicle¹ to another person must keep a record of the registration of the motor vehicle and specified information about the person to whom the vehicle is rented.² Chapter 1306 requires that every renter³ of motor vehicles equipped with cellular radio telephone⁴ equipment must provide the rentee with written instructions⁵ concerning the safe use of the equipment.⁶

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1. CAL. VEH. CODE § 415 (motor vehicle defined).

2. *Id.* § 14609 (specified information includes the renter's name and address, driver's license number, vehicle registration number, and the jurisdiction and expiration date of the driver's license).

3. *Id.* § 508 (a renter is a person who is engaged in the business of renting, leasing, or bailing vehicles for a term not exceeding four months and for a fixed rate or price).

4. CAL. PENAL CODE § 632.5(c) (cellular radio telephone means a wireless telephone authorized by the Federal Communications Commission to operate in the frequency bandwidth reserved for cellular radio telephones).

5. CAL. VEH. CODE § 28090 (the equipment must be clearly labeled with operating instructions).

6. *Id.* § 28090.

Transportation; motor vehicle inspections—air pollution

Health and Safety Code § 43012 (amended).
SB 961 (Hart); 1987 STAT. Ch. 1392

Existing law authorizes an executive officer¹ of the State Air Resources Board² to enter a car dealer's lot to inspect³ new vehicles⁴ for compliance with emissions standards.⁵ Chapter 1392 extends the inspection authority to any authorized governmental agency.⁶ Chapter 1392 further permits inspections of used vehicles⁷ for compliance with emissions standards.⁸ Additionally, Chapter 1392 requires the Air Resources Board to issue a notice to the dealer to correct⁹ emission violations of any vehicle found not in compliance with emissions standards.¹⁰

Under existing law, a five hundred dollar fine may be levied against any dealer for a new vehicle which is not in compliance with the emissions standards.¹¹ Chapter 1392 imposes a one thousand dollar fine for emissions violations.¹² Civil penalties, however, are limited to those dealers who are issued more than three notices during any three inspections conducted at least thirty days apart during any one year period.¹³

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1. CAL. HEALTH & SAFETY CODE § 39515(a) (definition of duties of executive officer).
 2. *Id.* § 39003 (definition of State Air Resources Board).
 3. *Id.* § 43012(a). The inspection may extend to all emission-related parts and operations of the vehicle, or any records relating to vehicular emissions that are required. *Id.*
 4. *Id.* § 39042 (definition of new vehicles).
 5. *Id.* § 43012. *Id.* § 39027 (definition of emissions standards).
 6. *Id.* § 43012(a).
 7. *Id.* § 39058 (definition of used motor vehicle).
 8. *Id.* § 43012(a).
 9. *Id.* § 43012(d) (a notice to correct prohibits the sale of the vehicle until such time as the emissions standards are complied with).
 10. *Id.*
 11. *Id.* § 43016.
 12. *Id.* § 43012(d).
 13. *Id.* § 43012(e). A civil penalty will not be assessed if, in the determination of the state board, the violation is related to lack of maintenance or customer tampering or vandalism. *Id.*

