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**SUPREME COURT OF THE  
STATE OF WASHINGTON**

STATE OF WASHINGTON, RESPONDENT

v.

ARTURO SPENCER MARTIN, PETITIONER

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Appeal from the Superior Court of Pierce County  
The Honorable Frank Cuthbertson, Brian Tollefson, Jerry Costello, Stanley Rumbaugh

No. 12-1-00649-2

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**ANSWER TO PETITION FOR REVIEW**

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A. ISSUES PERTAINING TO APPELLANT'S ASSIGNMENTS OF ERROR.

1. Is "800 Admiral Callaghan Lane, Vallejo, California" a municipal real property address?
2. Applying the preponderance of the evidence standard, does a 1983 California criminal complaint alleging the burglary of a municipal real property address exclude the possibility that certain other potential California burglary situs were charged?
3. Which potential California burglary situs remain after such an exclusion?
4. Is each of those remaining potential California burglary situs comparable to either (a) a valid 1983 Washington burglary situs, or (b) a valid 1983 Washington vehicle prowling in the first degree situs?
5. Was petitioner's 1983 California burglary properly scored as one point in petitioner's offender score?
6. Were petitioner's constitutional speedy trial rights violated?

B. STATEMENT OF THE CASE.

1. Procedure

- 2/23/12 Defendant charged with second degree assault, felony harassment, and interfering with the reporting of domestic violence, all domestic violence incidents. CP 1-3.
- Investigating officers were unable to locate defendant at this time. 5 VRP 24.
- 1/9/14 Defendant, incarcerated in Wyoming, requested a final disposition in this case through the Interstate Agreement on Detainers. (IAD). CP 70-76.
- 5/6/14 Defendant arrives at the Pierce County Jail. CP 65.
- 5/7/14 Defendant arraigned. CP 65. 62 days of IAD time remaining.
- 6/12/14 Agreed continuance. CP 475; 6/12/14 VRP 2-3.
- 9/3/14 Agreed continuance. CP 476; 9/3/14 VRP 2-4. Trial date set for February 29, 2015. CP 477.
- Court granted defendant's request to represent himself. CP 477; 1/29/15 VRP 17.
- 2/12/15 State requests a continuance of the trial date to provide time to clarify defendant's request for self-representation. 2/12/15 VRP 3-4; *Id.* at 8. The State expressed its request in a written motion. CP 27-52. The judge who permitted self-representation was on recess. 2/12/15 VRP 3.
- Defendant objects to the continuance based on the length of the delay in bringing him to trial so far (2/12/15 VRP 6-7) and his assertion that the continuance motion was "a ploy from the district attorney, you know, just to waste time, you know. Time is just being wasted." 2/12/15 VRP 7. Respondent admitted that he did not understand the self-representation problem presented by the State. *Id.*
- Trial continued from February 19, 2015 to February 26, 2015. 2/12/15 VRP 8; CP 478.

- 2/20/15 The court readdressed defendant's self-representation. 2/20/15 VRP 6-11. The court reaffirmed defendant's self-representation. 2/20/15 VRP 11. The court ordered standby counsel, but did not assign a lawyer to be standby counsel. 2/20/15 VRP at 19.
- 2/25/15 Defendant, representing himself, moves to dismiss the case, alleging violation of the IAD. CP 99-109.
- 2/26/15 Agreed continuance because the assigned prosecuting attorney was in a different trial and the defendant needed additional time to prepare. CP 479. Trial date set for 4/9/15. CP 479.
- 4/9/15 Assigned trial date. *Id.* Defendant, representing himself, requests a new lawyer. Defendant's motion is denied. 1 VRP 8. Defendant's standby counsel (his former lawyer) directed to represent him. 1 VRP 15. The court gave defendant's counsel a week to get ready for trial on April 16, 2015. 1 VRP 17.
- 4/16/15 Defendant's motion for continuance denied. 2 VRP 6. Matter proceeds to trial. *See* 4 VRP 1.

2. Facts

On August 6, 1983, Petitioner committed the offense of burglary in California by "willfully and unlawfully entering 800 Admiral Callaghan Lane, Vallejo, California, with the intent to commit theft" on August 9, 1983. CP 213, 214. Petitioner now challenges the scoring of this offense as one point in the calculation of his offender score. Petition for Discretionary Review at 18-19.

C. ARGUMENT.

1. PETITIONER'S 1983 BURGLARY  
CONVICTION WAS PROPERLY SCORED AS  
ONE POINT AT PETITIONER'S SENTENCING.

On August 6, 1983, Petitioner committed the offense of burglary in California. CP 214. Cal. Penal Code § 459 defined burglary at that time:

Every person who enters any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse or other building, tent, vessel, railroad car, trailer coach, as defined in Section 635 of the Vehicle Code, any house car, as defined in Section 362 of the Vehicle Code, inhabited camper, as defined in Section 243 of the Vehicle Code, vehicle as defined by the Vehicle Code when the doors of such vehicle are locked, aircraft as defined by the Harbors and Navigation Code, mine or any underground portion thereof, with intent to commit grand or petit larceny or any felony is guilty of burglary. As used in this chapter, "inhabited" means currently being used for dwelling purposes, whether occupied or not.

Cal. Penal Code § 459 (1983).<sup>1</sup> The issue presented to this Court is whether or not that particular California burglary was properly counted as one point in petitioner's offender score in this case.<sup>2</sup> The statute governing comparability is RCW 9.94A.525(3), which provides:

(3) Out-of-state convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. ...

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<sup>1</sup> Cal. Statutes of 1978, ch. 579, § 22. (Appendix A).

<sup>2</sup> This is a factual comparability case. *State v. Thieffault*, 160 Wn.2d 409, 415, 158 P.3d 580 (2007).

The materials available and necessary to resolve this issue are (1) the California Penal Code; (2) the Revised Code of Washington; (3) the relevant California criminal complaint (CP 213)<sup>3</sup>; and (4) the judgment and sentence in this case. Were this Court to accept review, review would be de novo. *State v. McCormack*, 117 Wn.2d 141, 143, 812 P.2d 483 (1991). The State has the burden of proving comparability by a preponderance of the evidence. *State v. Ross*, 152 Wn.2d 220, 230, 95 P.3d 1225 (2004).

No comparability issues are presented in the motion for discretionary review involving Washington's "enter or remain unlawfully<sup>4</sup>" and "with intent to commit a crime against a person or property therein<sup>5</sup>" elements. The sole comparability issue is whether petitioner's August 6, 1983 California burglary situs is comparable to

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<sup>3</sup> The California criminal complaint is a valid source of information. See *State v. Morley*, 134, Wn.2d 588, 606, 952 P.2d 167 (1998); *State v. Farnsworth*, 133 Wn. App. 1, 18, 130 P.3d 389 (2006).

<sup>4</sup> Unlawful entry was an element of Cal. Penal Code § 469 in 1983, and well before. *People v. Davis*, 18 Cal. 4th 712, 721-22, 958 P.2d 1083 (1998). Review has not been sought on this issue. This was not addressed in *State v. Thomas*, 135 Wn. App. 474, 144 P.3d 1178 (2006) in which the issue involving that element was resolved by the State's concession. *Id.* at 476.

<sup>5</sup> In this case, the California criminal complaint explicitly alleges "with intent to commit theft." (CP 213). This falls squarely within Washington's "intent to commit a crime against a person or property," and is comparable. Review has not been sought on this issue.

either an August 6, 1983 Washington burglary situs or an August 6, 1983 Washington vehicle prowling in the first degree situs.<sup>6</sup>

In this case, after the range of potential burglary situs is narrowed down by the language of petitioner's 1983 California criminal burglary complaint (applying the preponderance of the evidence standard)<sup>7</sup>, each remaining potential situs, when unlawfully entered with intent to commit a crime against persons or property therein, is a felony under Washington law, and the California offense is properly scored as one point toward the determination of petitioner's standard range.<sup>8</sup>

- a. Petitioner did not burglarize a California vehicle, a California airplane, a California vessel, or a California railroad car.

Four potential California burglary situs can be ruled out by the California criminal complaint's charging language that alleged that petitioner committed burglary by "willfully and unlawfully entering 800 Admiral Callaghan Lane, Vallejo, California, with the intent to commit theft" on August 9, 1983. (CP 213). Those are "vehicles ... when the

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<sup>6</sup> *State v. Morley*, 134 Wn.2d 588, 606, 952 P.2d 167 (1998).

<sup>7</sup> *State v. Ross*, 152 Wn.2d at 230; *State v. McCorkle*, 137 Wn.2d 490, 495, 973 P.2d 461 (1999).

<sup>8</sup> This case is only about scoring one point. In a violent felony like this assault 2 case, all prior nonviolent felonies score for one point under the SRA. RCW 9.94A.525(8).

doors of such vehicle are locked,<sup>9</sup> “aircraft,<sup>10</sup>” vessels, and railroad cars.<sup>11</sup> Such items are not reasonably described by a municipal street address. They may be located on real property described by a street address from time to time, but they are not described as a real property address. The preponderance of the evidence demonstrates that petitioner did not engage in burglarizing any of those four situses.

- b. Petitioner could not have burglarized a California mine, but if he did, that would have been a Washington burglary in the second degree and would have added one point to petitioner’s offender score.

A mine is a potential California burglary situs that is also foreclosed by the petitioner’s 1983 criminal complaint. It is not reasonable to conclude that a mine can be described by a municipal street address. But even if mines are reasonably described by street addresses in California charging documents, mines are also “structures ... used for carrying on business therein,” and fall within Washington’s definition of

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<sup>9</sup> The statute accords with the common meaning of vehicle. Cal. Vehicle Code § 670. (Appendix B).

<sup>10</sup> This statute accords with the common meaning of aircraft. Cal. Statutes of 1975, ch. 1052, p. 2487-88. (Appendix C).

<sup>11</sup> The State does not rely in this answer upon the assertion that Washington’s “railway car” is substantially the same as California’s “railroad car,” because Washington’s “railway car” excludes flatbed cars (*State v. Petit*, 32 Wn. 129, 130–31, 72 P. 1021 (1903)) and apparently the California courts of appeal have not had occasion to make such a distinction. Were this Court to accept review, the State may ask this Court to overrule *Petit*.

“building.” RCW 9A.04.110(5) (1983).<sup>12</sup> The preponderance of the evidence establishes that petitioner burglarized something other than a mine in California in 1983, but if even if he did burglarize a mine (within the city limits of Vallejo, California), had he done the same thing in Washington, he would have committed the felony of burglary, and that would count as one point toward his offender score today.

- c. The burglary of a California “house car,” would have been the Washington class C felony of vehicle prowling in the first degree and would have added one point to petitioner’s offender score.

It is debatable whether the potential California burglary situs of “house car” could reasonably be described by a municipal real property street address.<sup>13</sup> However, in Washington, on August 6, 1983,

[a] person is guilty of vehicle prowling in the first degree if, with intent to commit a crime against a person or property therein, he enters or remains unlawfully in a motor home, as defined in RCW 46.04.305, or in a vessel equipped for propulsion by mechanical means or by sail which has a cabin equipped with permanently installed sleeping quarters or cooking facilities.

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<sup>12</sup> Washington cases have broadly interpreted the definition of “building” under RCW 9A.04.110(5). *See, e.g., State v. Johnson*, 159 Wn. App. 766, 772, 247 P.3d 11 (2011) (holding even if a locomotive is not a “railway car” it still qualifies as a “building” under the ordinary meaning of the term); *State v. Tyson*, 33 Wn. App. 859, 862–63, 658 P.2d 55 (1983) (holding a semitrailer attached to a truck tractor and parked in a freight terminal is a “building” because it is either a cargo container or “other structure used for the deposit of goods”).

<sup>13</sup> Presentation of the argument that a municipal street address could not reasonably describe a house car is not made in this answer to motion for discretionary review.

RCW 9A.52.095 (1983).<sup>14</sup> The language of vehicle prowling in the first degree could fairly be described as burglary of certain movable things. The “enter or remain unlawfully” element is the same and the “crime against a person or property” element is the same. The only thing that differs is the offense’s situs element. The definition of motor home, a vehicle prowling in the first degree situs, means “motor vehicles originally designed, reconstructed, or permanently altered to provide facilities for human habitation.<sup>15</sup>” In 1983, this was comparable to a California “house car:”

A “house car” is a motor vehicle originally designed, or permanently altered, and equipped for human habitation, or to which a camper has been permanently attached. A motor vehicle to which a camper has been temporarily attached is not a house car except that, for the purposes of Division 11 (commencing with Section 21000) and Division 12 (commencing with Section 24000), a motor vehicle equipped with a camper having an axle that is designed to support a portion of the weight of the camper unit shall be considered a three-axle house car regardless of the method of attachment or manner of registration. A house car shall not be deemed to be a motortruck.

Cal. Vehicle Code § 362 (1983).<sup>16</sup> If petitioner burglarized a “house car” in California in 1983, he would have committed the Class C felony of

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<sup>14</sup> Laws of 1982 1<sup>st</sup> Ex. Sess., ch. 47, § 13.

<sup>15</sup> Laws of 1971 ex.s. ch. 231 § 3.

<sup>16</sup> Appendix D. Cal. Vehicle Code § 362.

vehicle prowling in the first degree had he committed that act in Washington. That offense is properly scored as one point.

- d. The burglary of a California “trailer coach” or the burglary of an inhabited “camper” would have been the Washington class B felony of burglary in the second degree and would have added one point to petitioner’s offender score.

“Trailer coaches” and “inhabited campers” are two other potential California burglary situses which are also Washington burglary situses. A California trailer coach, in 1983 was defined as

a vehicle, other than a motor vehicle, designed for human habitation, or human occupancy for industrial, professional or commercial purposes, for carrying property on its own structure, and for being drawn by a motor vehicle.<sup>17</sup>

A California camper, in 1983, was defined as

a structure designed to be mounted upon a motor vehicle and to provide facilities for human habitation or camping purposes. A camper having one axle shall not be considered a vehicle.”

Cal. Vehicle Code § 243 (Appendix F).

These two kinds of things fall within the definition of “building” applicable to burglary in the second degree applicable in 1983:

[b]uilding ... ‘in addition to its ordinary meaning, includes any dwelling, fenced area, vehicle, railway car, cargo container, or any other structure used for lodging of persons

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<sup>17</sup> Cal. Vehicle Code § 635 (1983); Cal. Statutes of 1971, ch. 1536, § 1.5 (Appendix E).

or for carrying on business therein, or for the use, sale or deposit of goods...

RCW 9A.04.110(5) (1983).<sup>18</sup> This definition of “building” is constrained by the definition of burglary in the second degree which, in 1983, stated

A person is guilty of burglary in the second degree if, with intent to commit a crime against a person or property therein, he or she enters or remains unlawfully in a building other than a vehicle.

RCW 9A.52.030(1) (1983).<sup>19</sup> That constraint, however, is not broad enough to exclude California trailer coaches or California campers:

The kinds of vehicle which are excluded from the burglary statute, by the terms of the criminal code, are motor vehicles as defined in the vehicle and traffic laws, RCW 9A.04.110(26), and this in turn means self-propelled vehicles, RCW 46.04.320.

Cargo trailers or semitrailers of the kind involved in this case are not self-propelled vehicles either in fact or as defined by statute. As a consequence, they are not as a matter of law excluded from the burglary in the second degree statute.

(brackets and internal quotation omitted) *State v. Tyson*, 33 Wn. App. 859, 864, 658 P.2d 55 (1983) (holding that a semi trailer (comparable to a California “trailer coach”) was a valid burglary in the second degree situs). If petitioner burglarized a “trailer coach” or an “inhabited camper” on August 6, 1983, then petitioner would have committed burglary in the

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<sup>18</sup> Laws of 1975 1<sup>st</sup> Ex. Sess., ch. 260, § 9A.04.110(5).

<sup>19</sup> Laws of 1975-76, ch. 38, § 7.

second degree had that offense been committed in Washington. This would count as one point toward his offender score.

- e. The burglary of a California “tent” would have been the Washington class B felony of burglary in the second degree and would have added one point to petitioner’s offender score.

If respondent committed burglary by entering a California tent on August 6, 1983 as charged (CP 213) then he committed an offense comparable to Washington’s burglary in the second degree. As the Court of Appeals correctly noted, entry into a tent is entry into a “building.” Unpublished Opinion, Div. II 75230-8-I at 15.

Tents are “structure[s] used for lodging of persons or for carrying on business therein, or for the use, sale or deposit of goods. . .” RCW 9A.04.110(5) (1983).<sup>20</sup>

- f. The burglary of any of the remaining potential California burglary situses would have been the Washington class B felony of burglary in the second degree and would have added one point to petitioner's offender score.

The following things are describable by a municipal street address, fall within the scope of Cal. Penal Code § 459, are obviously characterized

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<sup>20</sup> Laws of 1975 1<sup>st</sup> Ex. Sess., ch. 260, § 9A.04.110.

as buildings pursuant to RCW 9A.04.110, and are not raised as issues in the motion for discretionary review: “[A]ny house, room, apartment, tenement, shop, warehouse,<sup>21</sup> store, mill, barn, stable, outhouse, or other building. Burglaries of any such place in California, would also be Washington burglaries. Had petitioner burglarized one of those situses in Washington, he would have committed the offense of burglary in the second degree, and that properly results in the addition of one point to his offender score.

- g. On August 6, 1983, Petitioner burglarized a California burglary situs that was comparable to a Washington burglary situs.

Burglary as defined in Cal. Penal Code § 459 in 1983 encompasses multiple, divisible, situs elements.<sup>22</sup> Several of those situs elements, applying the preponderance of the evidence / more likely than not standard, cannot be described by “800 Admiral Callaghan Lane, Vallejo, California.” Once those irrelevant elements are eliminated, all that remains are 1983 California burglary situs elements that are comparable to either (a) 1983 felony burglary in the second degree, or (b) 1983 felony

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<sup>21</sup> In *State v. Nolon*, 129 Wash. 284, 286, 224 P. 932 (1924) a burglarized warehouse was “a building wherein any property is kept for use, sale or deposit.”

<sup>22</sup> *State v. Olsen*, 180 Wn.2d 468, 474-77, 325 P.3d 187 (2014) held that Washington’s process is consonant with *Descamps v. United States*, — U.S. —, 133 S. Ct. 2276, 186 L. Ed. 2d 438 (2013).

vehicle prowling in the first degree. Both the trial court and the Court of Appeals properly found that the August 6, 1983 California burglary properly scored as one point. There is no need for this Court to take discretionary review of this issue.

2. PETITIONER'S SPEEDY TRIAL RIGHTS WERE NOT VIOLATED.

The Court of Appeals adequately addressed petitioner's argument. 75230-8-I, 11/21/16 Unpublished Opinion. The State adopts the reasoning presented in that opinion.

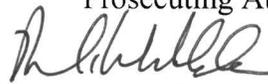
D. CONCLUSION.

Petitioner's 1983 California burglary is factually comparable to a 1983 Washington felony and was properly scored as one point. Petitioner received a timely trial. No substantial issues are presented for

discretionary review. Petitioner's motion for discretionary review should be denied.

DATED: May 1, 2017

MARK LINDQUIST  
Pierce County  
Prosecuting Attorney

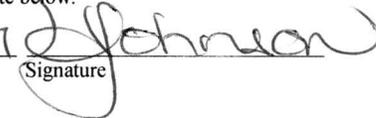


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MARK von WAHLDE  
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WSB # 18373

Certificate of Service:

The undersigned certifies that on this day she delivered by <sup>efile</sup> ~~U.S. mail~~ or ABC-LMI delivery to the attorney of record for the appellant and appellant c/o his attorney true and correct copies of the document to which this certificate is attached. This statement is certified to be true and correct under penalty of perjury of the laws of the State of Washington. Signed at Tacoma, Washington, on the date below.

5/1/17   
Date Signature

# **APPENDIX “A”**

*California Penal Code § 459 (1983)*

Vehicle Code, or any dwelling house, or any kitchen, shop, barn, stable or other outhouse that is parcel thereof, or belonging to or adjoining thereto, whether the property of himself or of another, shall be guilty of arson, and upon conviction thereof, be sentenced to the state prison for two, four, or six years. As used in this section, "inhabited" means currently being used for dwelling purposes, whether occupied or not.

SEC. 20. Section 448a of the Penal Code is amended to read:

448a. Any person who willfully and maliciously sets fire to or burns or causes to be burned or who aids, counsels or procures the burning of any barn, stable, garage or other building, whether the property of himself or of another, not a parcel of a dwelling house; or any shop, storehouse, warehouse, factory, mill or other building, whether the property of himself or of another; or any church, meetinghouse, courthouse, workhouse, school, jail or other public building or any public bridge, shall, upon conviction thereof, be sentenced to the state prison for two, four, or six years.

SEC. 21. Section 454 of the Penal Code is amended to read:

454. Every person who violates the provisions of Section 447a, 448a, 449a, 449b, 449c or 450a during and within the area of a state of insurrection or a state of emergency as proclaimed by the Governor pursuant to Section 143 of the Military and Veterans Code or pursuant to Section 8625 of the Government Code, provided that such state of emergency is proclaimed because of riot, is punishable by imprisonment in the state prison for three, five, or seven years.

SEC. 22. Section 459 of the Penal Code is amended to read:

459. Every person who enters any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse or other building, tent, vessel, railroad car, trailer coach, as defined in Section 635 of the Vehicle Code, any house car, as defined in Section 362 of the Vehicle Code, inhabited camper, as defined in Section 243 of the Vehicle Code, vehicle as defined by the Vehicle Code when the doors of such vehicle are locked, aircraft as defined by the Harbors and Navigation Code, mine or any underground portion thereof, with intent to commit grand or petit larceny or any felony is guilty of burglary. As used in this chapter, "inhabited" means currently being used for dwelling purposes, whether occupied or not.

SEC. 23. Section 460 of the Penal Code is amended to read:

460. 1. Every burglary of an inhabited dwelling house or trailer coach as defined by the Vehicle Code, or the inhabited portion of any other building committed in the nighttime, is burglary of the first degree.

2. All other kinds of burglary are of the second degree.

3. This section shall not be construed to supersede or affect Section 464 of the Penal Code.

SEC. 24. Section 461 of the Penal Code is amended to read:

461. Burglary is punishable as follows:

1 Burglary in the first degree: by imprisonment in the state prison

## **APPENDIX “B”**

*California Vehicle Code § 670*

West's Annotated California Codes

Vehicle Code (Refs & Annos)

Division 1. Words and Phrases Defined (Refs & Annos)

West's Ann.Cal.Vehicle Code § 670

§ 670. Vehicle

Currentness

A "vehicle" is a device by which any person or property may be propelled, moved, or drawn upon a highway, excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks.

**Credits**

(Stats.1959, c. 3, p. 1540, § 670. Amended by Stats.1975, c. 987, p. 2327, § 3.)

Notes of Decisions (17)

West's Ann. Cal. Vehicle Code § 670, CA VEHICLE § 670  
Current with urgency legislation through Ch. 4 of 2017 Reg.Sess

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## **APPENDIX “C”**

*California Statutes of 1975, Ch. 1052, P. 2487-88*

by the administrator by mutual agreement of all parties thereto, or canceled by the administrator for good and sufficient reason.

(h) A provision that all controversies or differences concerning the apprentice agreement which cannot be adjusted locally, or which are not covered by collective-bargaining agreement, shall be submitted to the administrator for determination as provided for in Section 3081.

(i) A provision that an employer who is unable to fulfill his obligation under the apprentice agreement may with approval of the administrator transfer such contract to any other employer, if the apprentice consents and such other employer agrees to assume the obligation of said apprentice agreement.

(j) Such additional terms and conditions as may be prescribed or approved by the California Apprenticeship Council, not inconsistent with the provisions of this chapter.

(k) A clause providing that there shall be no liability on the part of the other contracting party for an injury sustained by an apprentice engaged in schoolwork at a time when the employment of the apprentice has been temporarily or permanently terminated.

SEC. 3. There are no state-mandated local costs in this act that require reimbursement under Section 2231 of the Revenue and Taxation Code because there are no duties, obligations, or responsibilities imposed on local government by this act.

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## CHAPTER 1052

An act to amend Sections 21005, 21012, 21204, 21206, 21252, 21405, 21655, 21660, 21666, 21668, and 21674 of, to amend the headings of Chapter 2 (commencing with Section 21201) and Article 1 (commencing with Section 21201) of Chapter 2 of Part 1 of Division 9 of, to add Section 21668.2 to, and to repeal Sections 21205 and 21207 of, the Public Utilities Code, relating to aviation.

[Approved by Governor September 24, 1975 Filed with  
Secretary of State September 24, 1975 ]

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

SECTION 1. Section 21005 of the Public Utilities Code is amended to read:

21005. This part shall not be construed as limiting any power of the state or a political subdivision to regulate airport hazards by zoning.

SEC. 2. Section 21012 of the Public Utilities Code is amended to read.

21012. "Aircraft" means any manned contrivance used or designed for navigation of, or flight in, the air requiring certification and registration as prescribed by federal statute or regulation.

Notwithstanding the foregoing provisions of this section, manned lighter-than-air balloons shall not be considered to be aircraft for purposes of this part.

SEC. 3. The heading of Chapter 2 (commencing with Section 21201) of Part 1 of Division 9 of the Public Utilities Code is amended to read:

**CHAPTER 2. DEPARTMENT OF TRANSPORTATION AND STATE  
AERONAUTICS BOARD**

SEC. 4. The heading of Article 1 (commencing with Section 21201) of Chapter 2 of Part 1 of Division 9 of the Public Utilities Code is amended to read:

**Article 1. Department of Transportation**

SEC. 5. Section 21204 of the Public Utilities Code is amended to read:

21204. The department may adopt, administer, and enforce rules and regulations for the administration of this part.

SEC. 6. Section 21205 of the Public Utilities Code is repealed.

SEC. 7. Section 21206 of the Public Utilities Code is amended to read:

21206. The board shall prepare a statement of all estimated revenues of the Aeronautics Account in the State Transportation Fund and revenues available for local subventions from any other sources for the next succeeding fiscal year, together with a statement of proposed expenditures to be made to local agencies and the University of California during the next succeeding fiscal year, or obligations to be incurred in connection therewith.

The said statement shall be included in the printed fiscal year budget submitted to the Legislature. Insofar as the matters to which it pertains, it shall constitute as submitted the budget submitted to the Department of Finance pursuant to Section 13320 of the Government Code, and, as to such matters, shall be administered by the Department of Finance as the fiscal year budget of the Department of Transportation under the provisions of this section and of Article 2 (commencing with Section 13320) of Chapter 3 of Part 3 of Division 3 of Title 2 of the Government Code.

Any changes or modifications in the budget described in this section shall be by vote of the board, approved by the Director of Finance.

In the event, during an annual period, the budgetary amount approved and allocated by the board for any purpose exceeds the amount actually necessary therefor, with a resultant available surplus, such surplus may be allocated by the board to any other purpose or supplemental project upon the written approval of the Director of Finance.

In administering said budget, the Director of Finance shall not

## **APPENDIX “D”**

*California Vehicle Code § 362*

West's Annotated California Codes

Vehicle Code (Refs & Annos)

Division 1. Words and Phrases Defined (Refs & Annos)

West's Ann.Cal.Vehicle Code § 362

§ 362. House car

Currentness

A "house car" is a motor vehicle originally designed, or permanently altered, and equipped for human habitation, or to which a camper has been permanently attached. A motor vehicle to which a camper has been temporarily attached is not a house car except that, for the purposes of Division 11 (commencing with Section 21000) and Division 12 (commencing with Section 24000), a motor vehicle equipped with a camper having an axle that is designed to support a portion of the weight of the camper unit shall be considered a three-axle house car regardless of the method of attachment or manner of registration. A house car shall not be deemed to be a motortruck.

**Credits**

(Added by Stats.1963, c. 688, p. 1694, § 3. Amended by Stats.1967, c. 375, p. 1601, § 1; Stats.1968, c. 228, p. 541, § 2, eff. May 29, 1968; Stats.1968, c. 875, p. 1666, § 1.)

Notes of Decisions (1)

West's Ann. Cal. Vehicle Code § 362, CA VEHICLE § 362  
Current with urgency legislation through Ch. 4 of 2017 Reg.Sess

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## **APPENDIX “E”**

*California Statutes of 1971, Ch. 1536, P. 3042-43*

The board of supervisors may contract with and employ any person for furnishing to a county facility, or to any court facility within the county or to any facility located within any district within the county, maintenance or custodial services when the board of supervisors finds that (a) said facility is at a location remote from available county employee resources and (b) it is in the economic interest of the county to contract for the services rather than assume the additional travel and subsistence expenses payable to existing county employees.

The authority herein given to contract shall include the right of the board of supervisors, to contract for the issuance and preparation of payroll checks.

The board may pay from any available funds such compensation to any such expert as it deems proper for the services rendered.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill No. 769 are both chaptered and amend Section 31000 of the Government Code and this bill is chaptered after Assembly Bill No. 769, that the amendments to Section 31000 proposed by both bills be given effect and incorporated in Section 31000 in the form set forth in Section 2 of this act. Therefore, Section 2 of this act shall become operative only if this bill and Assembly Bill No. 769 are both chaptered, both amend Section 31000, and Assembly Bill No. 769 is chaptered before this bill, in which case Section 1 of this act shall not become operative.

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## CHAPTER 1536

*An act to amend Sections 635, 21712, 24010, 24607, 24950, 25101, 25500, 26303, and 35112 of, and to add Section 242 to, the Vehicle Code, relating to vehicles.*

[Approved by Governor November 16, 1971 Filed with  
Secretary of State November 16, 1971 ]

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

SECTION 1. Section 242 is added to the Vehicle Code, to read:

242. A "camp trailer" is a vehicle designed to be used on a highway, capable of human habitation for camping or recreational purposes, that does not exceed 16 feet in overall length from the foremost point of the trailer hitch to the rear extremity of the trailer body and does not exceed 96 inches in width and includes any tent trailer. Where a trailer telescopes for travel, the size shall apply to the trailer as fully extended. Notwithstanding any other provision of law, a camp trailer shall not be deemed to be a trailer coach.

SEC. 1.5. Section 635 of the Vehicle Code is amended to read:

635. A "trailer coach" is a vehicle, other than a motor vehicle, designed for human habitation, or human occupancy for industrial, professional or commercial purposes, for carrying property on its own structure, and for being drawn by a motor vehicle.

SEC. 2. Section 21712 of the Vehicle Code is amended to read:

21712. (a) No person shall ride, and no person driving a motor vehicle shall knowingly permit any person to ride on any vehicle or upon any portion thereof not designed or intended for the use of passengers.

This subdivision does not apply to an employee engaged in the necessary discharge of his duty or to persons riding completely within or upon vehicle bodies in space intended for any load on the vehicle.

(b) No person shall drive a motor vehicle upon a highway which is towing a trailer coach or camp trailer containing any passenger.

SEC. 3. Section 24010 of the Vehicle Code is amended to read:

24010. No person engaged in the rental of utility trailers, camp trailers, or trailer coaches for use in combination with a passenger vehicle, for periods of 30 days or less, shall rent, lease or otherwise allow the operation of any such utility trailer, camp trailer, or trailer coach unless all necessary equipment required by this code and regulations adopted hereunder for the operation of such vehicles in combination has been provided or offered to the lessee for his use. The contract or rental agreement shall include the name of the person from whom the trailer, camp trailer, or trailer coach is rented, leased or obtained, the address of his place of business in this state where it is rented, leased or delivered, and a statement of any required equipment refused by the person to whom the trailer, camp trailer, or trailer coach is rented, leased, or delivered.

SEC. 4 Section 24607 of the Vehicle Code is amended to read:

24607. Every vehicle subject to registration under this code shall at all times be equipped with red reflectors mounted on the rear as follows:

(a) Every vehicle shall be equipped with at least one reflector so maintained as to be plainly visible at night from all distances within 350 to 100 feet from the vehicle when directly in front of the lawful upper headlamp beams

(b) Every vehicle, other than a motorcycle, manufactured and first registered on or after January 1, 1965, shall be equipped with at least two reflectors meeting the visibility requirements of subdivision (a).

(c) Every motortruck having an unladen weight of more than 5,000 pounds, every trailer coach, every camp trailer, every vehicle or vehicle at the end of a combination of vehicles subject to subdivision (a) of Section 22406, and every

## **APPENDIX “F”**

*California Vehicle Code § 243*

West's Annotated California Codes

Vehicle Code (Refs & Annos)

Division 1. Words and Phrases Defined (Refs & Annos)

West's Ann.Cal.Vehicle Code § 243

§ 243. Camper

Currentness

A "camper" is a structure designed to be mounted upon a motor vehicle and to provide facilities for human habitation or camping purposes. A camper having one axle shall not be considered a vehicle.

**Credits**

(Added by Stats.1963, c. 688, p. 1694, § 1. Amended by Stats.1968, c. 228, p. 541, § 1, eff. May 29, 1968.)

West's Ann. Cal. Vehicle Code § 243, CA VEHICLE § 243  
Current with urgency legislation through Ch. 4 of 2017 Reg.Sess

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