

JUDICIAL COUNCIL OF CALIFORNIA  
ADMINISTRATIVE OFFICE OF THE COURTS  
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**Exhibit "I"**

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TO: Each Judge of the Municipal Courts  
Each Justice Court Judge  
Each Municipal Court Commissioner  
Each Municipal Court Clerk  
Each Juvenile Traffic Hearing Officer  
Law Enforcement Agencies  
Other Interested Parties and Organizations

FROM:  Administrative Office of the Courts  
Rick Neal, Traffic Court Coordinator

DATE: April 23, 1993

SUBJECT: Motorcycle Safety Helmet Violations

**ISSUE**

What criteria did the Judicial Council use in determining that motorcycle safety helmet offenses are eligible for dismissal if the cited person presents timely proof of correction?

**RELEVANT CODE SECTIONS**

Vehicle Code sections 27803(a)(b)(c); 40303.5; 40522; 40610(b); and 40611.

**BACKGROUND**

In the Judicial Council's January 1993 Traffic Infraction Bail and Penalty Schedule, motorcycle safety helmet offenses (Vehicle Code section 27803(a)(b)(c)) are listed as correctable. The concern has been expressed that such offenses are not equipment related, and are, therefore, not eligible for dismissal upon timely proof of correction.

**BASIS FOR DECISION**

The Judicial Council considered the following in determining that motorcycle safety helmet offenses are eligible for correction:

- Offenses that are eligible for correction, unless there exists a disqualifying condition, are listed in Vehicle Code section 40303.5. Among the eligible offenses specified are infractions involving equipment as set forth in Division 12 of the Vehicle Code.

- Violations of Vehicle Code section 27803(a)(b)(c) (motorcycle safety helmets) are infractions.
- Vehicle Code section 27803(a)(b)(c) is listed in Division 12. The title of the Division is "Equipment of Vehicles".
- The Vehicle Code does not contain a specific definition of the word "equipment".
- In the Index of the Vehicle Code the word "helmet" is listed under the heading of "Equipment".
- There is no statutory language that would preclude motorcycle safety helmet offenses from being considered eligible for dismissal upon timely proof of correction.

### **IMPLEMENTATION**

When citing Vehicle Code section 27803 (a,b,c) the issuing officer should indicate by marking the appropriate check box on the citation whether or not the offense should be dismissed upon timely proof of correction. Marking the "no" check box denotes the existence of a disqualifying condition as specified in Vehicle Code section 40610(b). Those disqualifying conditions are: (1) evidence of fraud or persistent neglect; (2) the violation represents an immediate safety hazard; and (3) the violator does not agree to, or cannot, promptly correct the violation. In such cases, the Judicial Council's Traffic Infraction Bail and Penalty Schedule lists the "Total Bail" as \$76.00.

If the citing officer determines that none of the disqualifying conditions specified in Vehicle Code section 40610(b) exists, the officer should mark the "yes" check box on the citation. Vehicle Code section 40522 requires the court to dismiss the offense if none of the disqualifying conditions exist and the cited person presents to the court timely evidence that the offense has been corrected. The court is required by Vehicle Code section 40611 to charge the person cited a \$10.00 transaction fee.

If neither check box is marked, or if both check boxes are marked, it is recommended that the court return the citation to the issuing agency for clarification.

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