

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

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File No.: 1.A9293.08-1069.051

Mr. Courtney Tucker
Office of the General Counsel
Judicial Council of California
Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, CA 94102-3688

Dear Mr. Tucker:

The California Highway Patrol (CHP) values its working relationship with the Judicial Council of California and appreciates the support received in the past on issues relating to traffic enforcement. In that light, the CHP respectfully requests a change to the Uniform Bail and Penalty Schedules to list Sections 27803(b) and (c) of the California Vehicle Code (CVC), relating to the motorcycle helmet enforcement, as "eligible for correction."

In a recent Appellate Court case, the CHP v. Superior Court of Santa Cruz County, the court held that a violation of Section 27803 was potentially correctable. If an officer thinks the violation rises to an "immediate safety hazard" he/she may issue the citation as "not correctable." However, if the violation does not rise to an "immediate safety hazard," then it is potentially correctable.

It is not the intent of the CHP to permit motorcyclists without head cover to receive a citation marked for "correction" under the provisions of Section 40610(b) CVC. Rather it is to provide the law enforcement community the ability to use discretion when an enforcement stop is made on a motorcyclist wearing a head cover which is obviously not a motorcycle helmet. To this end, law enforcement officers can provide information to the offending motorcyclist who is unfamiliar with the helmet law.

It is the CHP's request that this issue be raised as an agenda item at the next scheduled open comment session to discuss possible options.

Mr. Courtney Tucker
Page 2

Thank you in advance for your attention to this matter. If you have any questions or concerns, please feel free to contact me or Captain [REDACTED] of our Office of Special Representative at (916) [REDACTED]

J. A. FARROW
Commissioner