

AMENDED IN SENATE JUNE 28, 2002

AMENDED IN SENATE JUNE 20, 2002

AMENDED IN ASSEMBLY APRIL 30, 2002

AMENDED IN ASSEMBLY APRIL 10, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2074

Introduced by Assembly Member Chavez

February 19, 2002

An act to amend Section 23580 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2074, as amended, Chavez. Vehicles: driving under the influence.

Existing law requires that a person who is convicted of certain offenses involving driving under the influence of any alcohol or drug and the offense is a 2nd or subsequent offense punishable under specified provisions, be sentenced to either not less than 48 consecutive hours of imprisonment or not less than 10 days of community service.

This bill would ~~increase the term of imprisonment to which~~ *instead provide that* an offender may be sentenced to *either* not less than 5 days, ~~and would permit a person who is sentenced to probation only to participate~~ *of imprisonment, including at least 2 periods of not less than 48 consecutive hours of imprisonment, or not less than 10 days of community service or participation in a home detention program for a period of not less than 60 days.* Because this bill would impose

additional duties on local governments relative to incarceration and home detention of offenders, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 23580 of the Vehicle Code is amended
2 to read:

3 23580. (a) ~~(1)~~ If any person is convicted of a violation of
4 Section 23152 or 23153 and the offense was a second or
5 subsequent offense punishable under Section 23540, 23546,
6 23550, 23550.5, 23560, or 23566, the court shall require that any
7 term of imprisonment that is imposed include at least one period
8 of not less than five ~~consecutive~~ days of imprisonment *that shall*
9 *include at least two periods of not less than 48 consecutive hours*
10 *of imprisonment*, or, in the alternative and notwithstanding Section
11 4024.2 of the Penal Code, that the person serve not less than 10
12 days of community service *or participate in a home detention*
13 *program established pursuant to Section 1203.016 of the Penal*
14 *Code for a period of not less than 60 days.*

15 ~~(2) If a person described in paragraph (1) is sentenced to~~
16 ~~probation only, the court may permit the person to participate in~~
17 ~~a home detention program established pursuant to Section~~
18 ~~1203.016 of the Penal Code.~~

19 (b) Notwithstanding any other provision of law, except Section
20 2900.5 of the Penal Code, unless the court expressly finds in the
21 circumstances that the punishment inflicted would be cruel or
22 unusual punishment prohibited by Section 17 of Article I of the
23 California Constitution, no court or person to whom a person is
24 remanded for execution of sentence shall release, or permit the
25 release of, a person from the requirements of subdivision (a),
26 including, but not limited to, any work-release program, weekend



1 service of sentence program, diversion or treatment program, or
2 otherwise.

3 (c) For the purposes of this section, “imprisonment” means
4 confinement in a jail, in a minimum security facility, or in an
5 inpatient rehabilitation facility, as provided in Part 1309
6 (commencing with Section 1309.1) of Title 23 of the Code of
7 Federal Regulations.

8 (d) This section shall become operative only if, and upon the
9 date of the certification by, the Department of Motor Vehicles to
10 the Secretary of State that California has submitted a completed
11 application for federal Title 408 grant programs funds pursuant to
12 that Part 1309.

13 SEC. 2. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.

