

AMENDED IN SENATE MARCH 11, 2003

**SENATE BILL**

**No. 132**

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**Introduced by Senator Battin**

February 5, 2003

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An act to amend Section 23550.5 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 132, as amended, Battin. Vehicles: driving under the influence: punishment: prior convictions.

(1) Existing law authorizes a conviction for driving under the influence or for driving under the influence and causing bodily injury, to be punished as either a felony or a misdemeanor, including administrative revocation of the driving privilege and designation as a habitual traffic offender, if the offense occurred within 10 years of a prior violation for either crime that was punished as a felony, or within 10 years of a prior violation for vehicular manslaughter with gross negligence that was punished as a felony.

This bill would specify that for purposes of punishing these offenses as specified, a violation that was initially sentenced as a felony, but was subsequently reduced to a misdemeanor, is a prior violation that was punished as a felony. The bill would increase the number of persons subject to felony prosecution, thereby establishing a state-mandated local program.

(2) 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 23550.5 of the Vehicle Code is amended  
 2 to read:  
 3 23550.5. (a) (1) A person is guilty of a public offense,  
 4 punishable by imprisonment in the state prison or confinement in  
 5 a county jail for not more than one year and by a fine of not less  
 6 than three hundred ninety dollars (\$390) nor more than one  
 7 thousand dollars (\$1,000) if that person is convicted of a violation  
 8 of Section 23152 or 23153, and the offense occurred within 10  
 9 years of any of the following:  
 10 (A) A prior violation of Section 23152 that was punished as a  
 11 felony under Section 23550 or this section, or both, or under  
 12 former Section 23175 or former Section 23175.5, or both.  
 13 (B) A prior violation of Section 23153 that was punished as a  
 14 felony.  
 15 (C) A prior violation of paragraph (1) of subdivision (c) of  
 16 Section 192 of the Penal Code that was punished as a felony.  
 17 (2) For purposes of this subdivision, “a prior violation that was  
 18 punished as a felony” includes a violation that was initially  
 19 sentenced as a felony, but was subsequently reduced to a  
 20 misdemeanor.  
 21 (b) Every person who, having previously been convicted of a  
 22 violation of Section 191.5 of the Penal Code or a felony violation  
 23 of paragraph (3) of subdivision (c) of Section 192 of the Penal  
 24 Code, is subsequently convicted of a violation of Section 23152 or  
 25 23153 is guilty of a public offense punishable by imprisonment in  
 26 the state prison or confinement in a county jail for not more than  
 27 one year and by a fine of not less than three hundred ninety dollars  
 28 (\$390) nor more than one thousand dollars (\$1,000).  
 29 (c) The privilege to operate a motor vehicle of a person  
 30 convicted of a violation that is punishable under subdivision (a) or  
 31 (b) shall be revoked by the department under paragraph (7) of  
 32 subdivision (a) of Section 13352, unless paragraph (6) of



1 ~~subdivision (a) of Section 13352 is also applicable, in which case~~  
2 ~~the privilege shall be revoked under that provision.~~

3 ~~(d) Any person convicted of a violation of Section 23152 that~~  
4 ~~is punishable under this section shall be designated a habitual~~  
5 ~~traffic offender for a period of three years, subsequent to the~~  
6 ~~conviction. The person shall be advised of this designation under~~  
7 ~~subdivision (b) of Section 13350.~~

8 SECTION 1. Section 23550.5 of the Vehicle Code is amended  
9 to read:

10 23550.5. (a) (1) A person is guilty of a public offense,  
11 punishable by imprisonment in the state prison or confinement in  
12 a county jail for not more than one year and by a fine of not less  
13 than three hundred ninety dollars (\$390) nor more than one  
14 thousand dollars (\$1,000) if that person is convicted of a violation  
15 of Section 23152 or 23153, and the offense occurred within 10  
16 years of any of the following:

17 ~~(1)~~

18 (A) A prior violation of Section 23152 that was punished as a  
19 felony under Section 23550 or this section, or both, or under  
20 former Section 23175 or former Section 23175.5, or both.

21 ~~(2)~~

22 (B) A prior violation of Section 23153 that was punished as a  
23 felony.

24 ~~(3)~~

25 (C) A prior violation of paragraph (1) of subdivision (c) of  
26 Section 192 of the Penal Code that was punished as a felony.

27 (2) *For purposes of this subdivision, a "prior violation that was*  
28 *punished as a felony" includes a violation that was initially*  
29 *sentenced as a felony, but was subsequently reduced to a*  
30 *misdemeanor.*

31 (b) Every person who, having previously been convicted of a  
32 violation of Section 191.5 of the Penal Code or a felony violation  
33 of paragraph (3) of subdivision (c) of Section 192 of the Penal  
34 Code, is subsequently convicted of a violation of Section 23152 or  
35 23153 is guilty of a public offense punishable by imprisonment in  
36 the state prison or confinement in a county jail for not more than  
37 one year and by a fine of not less than three hundred ninety dollars  
38 (\$390) nor more than one thousand dollars (\$1,000).

39 (c) The privilege to operate a motor vehicle of a person  
40 convicted of a violation that is punishable under subdivision (a) or



1 (b) shall be revoked by the department under paragraph (7) of  
2 subdivision (a) of Section 13352, unless paragraph (6) of  
3 subdivision (a) of Section 13352 is also applicable, in which case  
4 the privilege shall be revoked under that provision. The court shall  
5 require the person to surrender the driver’s license to the court in  
6 accordance with Section 13550.

7 (d) Any person convicted of a violation of Section 23152 or  
8 23153 that is punishable under this section shall be designated as  
9 a habitual traffic offender for a period of three years, subsequent  
10 to the conviction. The person shall be advised of this designation  
11 under subdivision (b) of Section 13350.

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

