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CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 91

Introduced by Assembly Member Feuer
**(Coauthors: Assembly Members *Gilmore*, *Hill*, *Huffman*, *Jeffries*,
Jones, *Nava*, *Saldana*, and *Torlakson*)**
(Coauthors: Senators *Cox* and *DeSaulnier*)

January 6, 2009

An act to add and repeal Chapter 5 (commencing with Section 23700) of Division 11.5 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 91, as amended, Feuer. Vehicles: driving under the influence (DUI): ignition interlock device.

(1) Existing law requires a person's privilege to operate a motor vehicle to be suspended or revoked for a specified period of time if the person has been convicted of violating specified provisions prohibiting driving a motor vehicle while under the influence of an alcoholic beverage or drug or the combined influence of an alcoholic beverage and drug, or with 0.08% or more, by weight, of alcohol in his or her blood or while addicted to the use of any drug, with or without bodily injury to another. Existing law also authorizes a person whose privilege is suspended or revoked in that manner to receive a restricted driver's license if specified requirements are met, including, in some instances, the installation of an ignition interlock device on the person's vehicle.

This bill would require the department to establish a pilot program from July 1, 2010, to January 1, 2015, in the Counties of Alameda, Los Angeles, *Orange*, Sacramento, and San Diego that requires, as a condition of being issued a restricted driver's license, being reissued a driver's license, or having the privilege to operate a motor vehicle reinstated subsequent to a conviction for a violation of the above offenses, a person to install for a specified period of time an ignition interlock device on all vehicles he or she owns or operates, ~~and participate in a county alcohol and drug problem assessment program except as provided.~~ The amount of time the ignition interlock device would be required to be installed would be based upon the number of convictions, as prescribed. *The bill would also require a person convicted of violating the above offenses to participate in a county alcohol and drug assessment program.*

The bill would also set up a statutory scheme under which the department would, with regard to the installation of an ignition interlock device described above, notify the person of the ignition interlock device installation requirements established under the bill, accept notification from the installer of the ignition interlock device of attempts to remove, bypass, or tamper with the ignition interlock device or if the person fails 3 or more times to comply with the maintenance requirements, monitor the installation and maintenance of the ignition interlock device, and keep specified records.

The bill would also require that manufacturers and manufacturer's agents certified by the department to provide ignition interlock devices adopt a fee schedule for payment of the costs of the ignition interlock device based on the offender's ability to pay and would require the court to adopt a similar fee schedule with regard to the fees for the county alcohol and drug problem assessment program.

On or before January 1, 2014, the department would be required to report to the Legislature regarding the effectiveness of the pilot program in reducing the number of first-time driving under the influence violations and repeat offenses in those counties.

These requirements would be in addition to existing law.

(2) Because it is a crime to operate a vehicle that is not equipped with a functioning, certified ignition interlock device by a person whose driving privilege is so restricted, the bill would impose a state-mandated local program; by expanding the scope of that crime.

(3) 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:

SECTION 1. Chapter 5 (commencing with Section 23700) is added to Division 11.5 of the Vehicle Code, to read:

CHAPTER 5. IGNITION INTERLOCK DEVICES

23700. (a) Notwithstanding any other provision of law, the Department of Motor Vehicles shall establish a pilot program in the Counties of Alameda, Los Angeles, *Orange*, Sacramento, and San Diego to reduce the number of first-time violations and repeat offenses of Sections 23152 and 23153, as follows:

(1) The Department of Motor Vehicles, upon receipt of the court's abstract conviction for a violation listed in paragraph ~~(8)~~ (7), shall inform the convicted person of the requirements of this section, including the term for which the person is required to have a certified ignition interlock device installed. The records of the department shall reflect the mandatory use of the device for the term required and the time when the device is required to be installed by this code.

(2) The department shall advise the person that installation of an ignition interlock device on a vehicle does not allow the person to drive without a valid driver's license.

(3) Before a driver's license may be issued, reissued, or returned to a person after a suspension or revocation of that person's driving privilege that requires the installation of an ignition interlock device, a person who is notified by the department pursuant to paragraph (1) shall complete all of the following:

(A) Arrange for each vehicle owned or operated by the person to be fitted with an ignition interlock device by a certified ignition interlock device provider under Section 13386.

1 (B) Notify the department and provide to the department proof
2 of installation by submitting the “Verification of Installation” form
3 described in paragraph (2) of subdivision (g) of Section 13386.

4 (C) Pay the fee, determined by the department, that is sufficient
5 to cover the costs of administration of this section.

6 (4) The department shall place a restriction on the driver’s
7 license record of the convicted person that states the driver is
8 restricted to driving only vehicles equipped with a certified ignition
9 interlock device.

10 (5) (A) A person who is notified by the department pursuant
11 to paragraph (1) shall arrange for each vehicle with an ignition
12 interlock device to be serviced by the installer at least once every
13 60 days in order for the installer to recalibrate and monitor the
14 operation of the device.

15 (B) The installer shall notify the department if the device is
16 removed or indicates that the person has attempted to remove,
17 bypass, or tamper with the device, or if the person fails three or
18 more times to comply with any requirement for the maintenance
19 or calibration of the ignition interlock device.

20 (6) The department shall monitor the installation and
21 maintenance of the ignition interlock device installed pursuant to
22 paragraph (1).

23 (7) A person is required to install an ignition interlock device
24 for the applicable term as a condition of being issued a restricted
25 driver’s license, being reissued a driver’s license, or having the
26 privilege to operate a motor vehicle reinstated subsequent to a
27 conviction for a violation or a suspension of a person’s driver’s
28 license, as follows:

29 (A) A person convicted of a violation of Section 23152 shall
30 be required to install an ignition interlock device, as follows:

31 (i) Upon a first offense, the person shall install an ignition
32 interlock device in all vehicles owned or operated by that person
33 for a mandatory term of five months that begins once that person
34 has provided proof of installation.

35 (ii) Upon a second offense, the person shall install an ignition
36 interlock device in all vehicles owned or operated by that person
37 for a mandatory term of 12 months that begins once that person
38 has provided proof of installation.

39 (iii) Upon a third offense, the person shall install an ignition
40 interlock device in all vehicles owned or operated by that person

1 for a mandatory term of 24 months that begins once that person
2 has provided proof of installation.

3 (iv) Upon a fourth offense or any subsequent violation, the
4 person shall install an ignition interlock device in all vehicles
5 owned or operated by that person for a mandatory term of 36
6 months that begins once that person has provided proof of
7 installation.

8 (B) A person convicted of a violation of Section 23153 shall
9 install an ignition interlock device, as follows:

10 (i) Upon a first offense, the person shall install an ignition
11 interlock device in all vehicles owned or operated by that person
12 for a mandatory term of 12 months that begins once that person
13 has provided proof of installation.

14 (ii) Upon a second offense, the person shall install an ignition
15 interlock device in all vehicles owned or operated by that person
16 for a mandatory term of 24 months that begins once that person
17 has provided proof of installation.

18 (iii) Upon a third offense, the person shall install an ignition
19 interlock device in all vehicles owned or operated by that person
20 for a mandatory term of 36 months that begins once that person
21 has provided proof of installation.

22 (iv) Upon a fourth offense or any subsequent violation, the
23 person shall install an ignition interlock device in all vehicles
24 owned or operated by that person for a mandatory term of 48
25 months that begins once that person has provided proof of
26 installation.

27 (8) *A person who is notified by the department, pursuant to this*
28 *subdivision, is exempt from the requirements of this subdivision*
29 *if within 30 days of the notification, the person certifies to the*
30 *department all of the following:*

31 (A) *The person does not own a vehicle.*

32 (B) *The person does not have access to a vehicle at his or her*
33 *residence.*

34 (C) *The person no longer has access to the vehicle being driven*
35 *by the person at the time he or she was arrested for a violation*
36 *that subsequently resulted in a conviction for a violation listed in*
37 *this subdivision.*

38 (D) *The person acknowledges that he or she is only allowed to*
39 *drive a vehicle that is fitted with a functioning ignition interlock*
40 *device.*

1 (E) *The person acknowledges that he or she is required to have*
2 *a valid driver's license before he or she can drive.*

3 (F) *The person is subject to the requirements of this section*
4 *when he or she purchases or has access to a vehicle.*

5 ~~(8)~~

6 (9) Subdivisions (j), (k), (m), (n), and (o) of Section 23575 apply
7 to this section.

8 ~~(9)~~

9 (10) If a person fails to comply with any of the requirements
10 regarding ignition interlock devices, the mandatory term for which
11 the ignition interlock device is required to be installed shall be
12 reset by the department.

13 (b) (1) A person convicted of a violation of Section 23152 or
14 23153 shall be required to participate in a county alcohol and drug
15 problem assessment program described in Section 23646.

16 (2) The county alcohol and drug problem assessment program
17 shall include treatment and counseling recommendations.

18 (3) The court shall impose a fee of no more than one hundred
19 twenty dollars (\$120) to pay for the cost of the assessment.

20 (4) The court shall determine the person's ability to pay for all
21 or a portion of the fee for the assessment based on the person's
22 income relative to the federal poverty level, as defined in Section
23 127400 of the Health and Safety Code:

24 (A) A person with an income at 100 percent of the federal
25 poverty level and below is responsible for 10 percent of the fee
26 for the assessment.

27 (B) A person with an income at 101 to 200 percent of the federal
28 poverty level is responsible for 25 percent of the fee for the
29 assessment.

30 (C) A person with an income at 201 to 300 percent of the federal
31 poverty level is responsible for 50 percent of the fee for the
32 assessment.

33 (D) All other offenders are responsible for 100 percent of the
34 fee for the assessment.

35 (c) (1) Every manufacturer and manufacturer's agent certified
36 by the department to provide ignition interlock devices, under
37 Section 13386, shall adopt the following fee schedule that provides
38 for the payment of the costs of the ignition interlock device by
39 offenders subject to this chapter in amounts commensurate with

1 that person's income relative to the federal poverty level, as defined
2 in Section 127400 of the Health and Safety Code:

3 (A) A person with an income at 100 percent of the federal
4 poverty level and below is responsible for 10 percent of the cost
5 of the ignition interlock device.

6 (B) A person with an income at 101 to 200 percent of the federal
7 poverty level is responsible for 25 percent of the cost of the ignition
8 interlock device.

9 (C) A person with an income at 201 to 300 percent of the federal
10 poverty level is responsible for 50 percent of the cost of the ignition
11 interlock device.

12 (D) All other offenders are responsible for 100 percent of the
13 cost of the ignition interlock device.

14 (2) The cost of the ignition interlock device may only be raised
15 annually equal to the Consumer Price Index.

16 (3) The offender's income may be verified by presentation of
17 that person's current federal income tax return or three months of
18 monthly income statements.

19 (d) This section does not permit a person to drive without a
20 valid driver's license.

21 (e) The requirements of this section are in addition to any other
22 requirements of law.

23 (f) This section shall become operative on July 1, 2010.

24 23701. On or before January 1, 2014, the Department of Motor
25 Vehicles shall report to the Legislature regarding the effectiveness
26 of the pilot program authorized under this chapter in reducing the
27 number of first-time violations and repeat offenses of Sections
28 23152 and 23153 in the Counties of Alameda, Los Angeles,
29 *Orange*, Sacramento, and San Diego.

30 23702. This chapter shall remain in effect only until January
31 1, 2015, and as of that date is repealed, unless a later enacted
32 statute, that is enacted before January 1, 2015, deletes or extends
33 that date.

34 SEC. 2. No reimbursement is required by this act pursuant to
35 Section 6 of Article XIII B of the California Constitution because
36 the only costs that may be incurred by a local agency or school
37 district will be incurred because this act creates a new crime or
38 infraction, eliminates a crime or infraction, or changes the penalty
39 for a crime or infraction, within the meaning of Section 17556 of
40 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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