

**ASSEMBLY BILL**

**No. 1601**

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**Introduced by Assembly Member Hill**  
**(Principal coauthor: Assembly Member Nava)**  
(Principal coauthors: Senators Harman and Maldonado)  
**(Coauthors: Assembly Members Block, Evans, Fong, Gilmore,**  
**Huber, and Ma)**

January 4, 2010

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An act to amend Sections 23217, 23540, 23546, 23550, 23550.5, 23560, and 23566 of, and to add Section 23597 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1601, as introduced, Hill. Vehicles: driving under the influence: repeat offenders.

Existing law requires, if a person is convicted of a specified driving under the influence (DUI) offense and the offense occurred within 10 years of 2, or 3 or more prior specified DUI offenses that resulted in a conviction, that the person be punished by enhanced penalties, and that the person's privilege to operate a motor vehicle be revoked by the department for a period of 2, 3, 4, or 5 years, as applicable.

This bill would delete the 10-year limitation.

Existing law authorizes the court to impose specified additional orders on a person when the person is convicted of a DUI offense, depending on the circumstances.

This bill would authorize the court to order the permanent revocation of the driver's license of a person who was previously convicted of 3 or more specified DUI offenses if the court considers certain specified

factors, including, but not limited to, the period of time that has elapsed since his or her previous DUI convictions.

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

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

1 SECTION 1. Section 23217 of the Vehicle Code is amended  
 2 to read:

3 23217. The Legislature finds and declares that some repeat  
 4 offenders of the prohibition against driving under the influence of  
 5 alcohol or drugs, when they are addicted or when they have too  
 6 much alcohol in their systems, may be escaping the intent of the  
 7 Legislature to punish the offender with progressively greater  
 8 severity if the offense is repeated one or more times ~~within a~~  
 9 ~~10-year period~~. This situation may occur when a conviction for a  
 10 subsequent offense occurs before a conviction is obtained on an  
 11 earlier offense.

12 The Legislature further finds and declares that the timing of  
 13 court proceedings should not permit a person to avoid aggravated  
 14 mandatory minimum penalties for multiple separate offenses  
 15 ~~occurring within a 10-year period~~. It is the intent of the Legislature  
 16 to provide that a person be subject to enhanced mandatory  
 17 minimum penalties for multiple offenses ~~within a period of 10~~  
 18 ~~years, regardless of whether~~ *when* the convictions ~~are obtained in~~  
 19 ~~the same sequence as the~~ *for those* offenses ~~had been committed~~  
 20 *obtained*.

21 Nothing in this section requires consideration of judgment of  
 22 conviction in a separate proceeding that is entered after the  
 23 judgment in the present proceeding, except as it relates to violation  
 24 of probation.

25 Nothing in this section or the amendments to Section 23540,  
 26 23546, 23550, 23560, 23566, 23622, or 23640 made by Chapter  
 27 1205 of the Statutes of 1984 affects the penalty for a violation of  
 28 Section 23152 or 23153 occurring prior to January 1, 1985.

29 SEC. 2. Section 23540 of the Vehicle Code is amended to read:

30 23540. (a) If a person is convicted of a violation of Section  
 31 23152 and the ~~offense occurred within 10 years~~ *person was*  
 32 *previously convicted* of a separate violation of Section 23103, as  
 33 specified in Section 23103.5, 23152, or 23153, that resulted in a

1 conviction, that person shall be punished by imprisonment in the  
2 county jail for not less than 90 days nor more than one year and  
3 by a fine of not less than three hundred ninety dollars (\$390) nor  
4 more than one thousand dollars (\$1,000). The person's privilege  
5 to operate a motor vehicle shall be suspended by the department  
6 pursuant to paragraph (3) of subdivision (a) of Section 13352. The  
7 court shall require the person to surrender the driver's license to  
8 the court in accordance with Section 13550.

9 (b) Whenever, when considering the circumstances taken as a  
10 whole, the court determines that the person punished under this  
11 section would present a traffic safety or public safety risk if  
12 authorized to operate a motor vehicle during the period of  
13 suspension imposed under paragraph (3) of subdivision (a) of  
14 Section 13352, the court may disallow the issuance of a restricted  
15 driver's license required under Section 13352.5.

16 ~~(e) This section shall become operative on September 20, 2005.~~

17 SEC. 3. Section 23546 of the Vehicle Code is amended to read:

18 23546. (a) If a person is convicted of a violation of Section  
19 23152 and ~~the offense occurred within 10 years~~ *person was*  
20 *previously convicted* of two separate violations of Section 23103,  
21 as specified in Section 23103.5, 23152, or 23153, or any  
22 combination thereof, that resulted in convictions, that person shall  
23 be punished by imprisonment in the county jail for not less than  
24 120 days nor more than one year and by a fine of not less than  
25 three hundred ninety dollars (\$390) nor more than one thousand  
26 dollars (\$1,000). The person's privilege to operate a motor vehicle  
27 shall be revoked by the Department of Motor Vehicles as required  
28 in paragraph (5) of subdivision (a) of Section 13352. The court  
29 shall require the person to surrender his or her driver's license to  
30 the court in accordance with Section 13550.

31 (b) A person convicted of a violation of Section 23152  
32 punishable under this section shall be designated as a habitual  
33 traffic offender for a period of three years, subsequent to the  
34 conviction. The person shall be advised of this designation pursuant  
35 to subdivision (b) of Section 13350.

36 SEC. 4. Section 23550 of the Vehicle Code is amended to read:

37 23550. (a) If a person is convicted of a violation of Section  
38 23152 and ~~the offense occurred within 10 years~~ *person was*  
39 *previously convicted* of three or more separate violations of Section  
40 23103, as specified in Section 23103.5, or Section 23152 or 23153,

1 or any combination thereof, that resulted in convictions, that person  
2 shall be punished by imprisonment in the state prison, or in a  
3 county jail for not less than 180 days nor more than one year, and  
4 by a fine of not less than three hundred ninety dollars (\$390) nor  
5 more than one thousand dollars (\$1,000). The person's privilege  
6 to operate a motor vehicle shall be revoked by the Department of  
7 Motor Vehicles pursuant to paragraph (9) of subdivision (a) of  
8 Section 13352. The court shall require the person to surrender the  
9 driver's license to the court in accordance with Section 13550.

10 (b) A person convicted of a violation of Section 23152  
11 punishable under this section shall be designated as a habitual  
12 traffic offender for a period of three years, subsequent to the  
13 conviction. The person shall be advised of this designation pursuant  
14 to subdivision (b) of Section 13350.

15 SEC. 5. Section 23550.5 of the Vehicle Code is amended to  
16 read:

17 23550.5. (a) A person is guilty of a public offense, punishable  
18 by imprisonment in the state prison or confinement in a county  
19 jail for not more than one year and by a fine of not less than three  
20 hundred ninety dollars (\$390) nor more than one thousand dollars  
21 (\$1,000) if that person is convicted of a violation of Section 23152  
22 or 23153, and ~~the offense occurred within 10 years~~ *person was*  
23 *previously convicted* of any of the following:

24 (1) A prior violation of Section 23152 that was punished as a  
25 felony under Section 23550 or this section, or both, or under former  
26 Section 23175 or former Section 23175.5, or both.

27 (2) A prior violation of Section 23153 that was punished as a  
28 felony.

29 (3) A prior violation of paragraph (1) of subdivision (c) of  
30 Section 192 of the Penal Code that was punished as a felony.

31 (b) Each person who, having previously been convicted of a  
32 violation of subdivision (a) of Section 191.5 of the Penal Code, a  
33 felony violation of subdivision (b) of Section 191.5, or a violation  
34 of subdivision (a) of Section 192.5 of the Penal Code, is  
35 subsequently convicted of a violation of Section 23152 or 23153  
36 is guilty of a public offense punishable by imprisonment in the  
37 state prison or confinement in a county jail for not more than one  
38 year and by a fine of not less than three hundred ninety dollars  
39 (\$390) nor more than one thousand dollars (\$1,000).

1 (c) The privilege to operate a motor vehicle of a person  
2 convicted of a violation that is punishable under subdivision (a)  
3 or (b) shall be revoked by the department under paragraph (9) of  
4 subdivision (a) of Section 13352, unless paragraph (8) of  
5 subdivision (a) of Section 13352 is also applicable, in which case  
6 the privilege shall be revoked under that provision. The court shall  
7 require the person to surrender the driver's license to the court in  
8 accordance with Section 13550.

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

14 SEC. 6. Section 23560 of the Vehicle Code is amended to read:  
15 23560. If a person is convicted of a violation of Section 23153  
16 and the ~~offense occurred within 10 years~~ *person was previously*  
17 *convicted* of a separate violation of Section 23103, as specified in  
18 Section 23103.5, 23152, or 23153 that resulted in a conviction,  
19 that person shall be punished by imprisonment in the state prison,  
20 or in a county jail for not less than 120 days nor more than one  
21 year, and by a fine of not less than three hundred ninety dollars  
22 (\$390) nor more than five thousand dollars (\$5,000). The person's  
23 privilege to operate a motor vehicle shall be revoked by the  
24 Department of Motor Vehicles pursuant to paragraph (4) of  
25 subdivision (a) of Section 13352. The court shall require the person  
26 to surrender the driver's license to the court in accordance with  
27 Section 13550.

28 SEC. 7. Section 23566 of the Vehicle Code is amended to read:  
29 23566. (a) If a person is convicted of a violation of Section  
30 23153 and the ~~offense occurred within 10 years~~ *person was*  
31 *previously convicted* of two or more separate violations of Section  
32 23103, as specified in Section 23103.5, or Section 23152 or 23153,  
33 or any combination of these violations, that resulted in convictions,  
34 that person shall be punished by imprisonment in the state prison  
35 for a term of two, three, or four years and by a fine of not less than  
36 one thousand fifteen dollars (\$1,015) nor more than five thousand  
37 dollars (\$5,000). The person's privilege to operate a motor vehicle  
38 shall be revoked by the Department of Motor Vehicles pursuant  
39 to paragraph (8) of subdivision (a) of Section 13352. The court

1 shall require the person to surrender the driver’s license to the  
 2 court in accordance with Section 13550.

3 (b) If a person is convicted of a violation of Section 23153, and  
 4 the act or neglect proximately causes great bodily injury, as defined  
 5 in Section 12022.7 of the Penal Code, to any person other than the  
 6 driver, and ~~the offense occurred within 10 years~~ *person was*  
 7 *previously convicted* of two or more separate violations of Section  
 8 23103, as specified in Section 23103.5, or Section 23152 or 23153,  
 9 or any combination of these violations, that resulted in convictions,  
 10 that person shall be punished by imprisonment in the state prison  
 11 for a term of two, three, or four years and by a fine of not less than  
 12 one thousand fifteen dollars (\$1,015) nor more than five thousand  
 13 dollars (\$5,000). The person’s privilege to operate a motor vehicle  
 14 shall be revoked by the Department of Motor Vehicles pursuant  
 15 to paragraph (8) of subdivision (a) of Section 13352. The court  
 16 shall require the person to surrender the driver’s license to the  
 17 court in accordance with Section 13550.

18 (c) If a person is convicted under subdivision (b), and ~~the offense~~  
 19 ~~for which the person is convicted occurred within 10 years~~ *person*  
 20 *was previously convicted* of four or more separate violations of  
 21 Section 23103, as specified in Section 23103.5, or Section 23152  
 22 or 23153, or any combination of these violations, that resulted in  
 23 convictions, that person shall, in addition and consecutive to the  
 24 sentences imposed under subdivision (b), be punished by an  
 25 additional term of imprisonment in the state prison for three years.

26 The enhancement allegation provided in this subdivision shall  
 27 be pleaded and proved as provided by law.

28 (d) A person convicted of Section 23153 punishable under this  
 29 section shall be designated as a habitual traffic offender for a period  
 30 of three years, subsequent to the conviction. The person shall be  
 31 advised of this designation pursuant to subdivision (b) of Section  
 32 13350.

33 (e) A person confined in state prison under this section shall be  
 34 ordered by the court to participate in an alcohol or drug program,  
 35 or both, that is available at the prison during the person’s  
 36 confinement. Completion of an alcohol or drug program under this  
 37 section does not meet the program completion requirement of  
 38 paragraph (8) of subdivision (a) of Section 13352, unless the drug  
 39 or alcohol program is licensed under Section 11836 of the Health

1 and Safety Code, or is a program specified in Section 8001 of the  
2 Penal Code.

3 SEC. 8. Section 23597 is added to the Vehicle Code, to read:

4 23597. (a) Notwithstanding Section 13352, a court may order  
5 the permanent revocation of the driver's license of a person who  
6 was previously convicted of three or more separate violations of  
7 Section 23152 or 23153. When making this order, the court shall  
8 consider all of the following:

9 (1) The person's level of remorse for the acts.

10 (2) The period of time that has elapsed since the person's  
11 previous convictions.

12 (3) The person's blood-alcohol level at the time of the violation.

13 (4) The person's participation in an alcohol treatment program.

14 (5) The person's risk to traffic or public safety.

15 (6) The person's ability to install a certified ignition interlock  
16 device in each motor vehicle that he or she owns or operates.

17 (b) Upon receipt of a duty certified abstract of the record of the  
18 court showing the court has ordered permanent revocation of a  
19 driver's license pursuant to this section, the department shall  
20 permanently revoke the person's driver's license.