

AMENDED IN SENATE APRIL 28, 2009

SENATE BILL

No. 154

Introduced by Senator Benoit

February 12, 2009

An act to amend Section 668 of the Harbors and Navigation Code, to amend Section 11836 of the Health and Safety Code, and to amend Section ~~23620~~ 13352 of the Vehicle Code, relating to vessels.

LEGISLATIVE COUNSEL'S DIGEST

SB 154, as amended, Benoit. Vessels: operation of vessel.

Existing law governs the operation and equipment of vessels subject to the jurisdiction of this state. Existing law prohibits a person from operating a vessel or manipulating water skis or an aquaplane or similar device or serving as a crew member of a charter boat under the influence of an alcoholic beverage or drug. Existing law provides that if probation is granted for this violation, the court, as a condition of probation, may require the person to participate in, and successfully complete, an alcohol or drug education, training, or treatment program. ~~A conviction of a second offense for operating a vessel under the influence of an alcoholic beverage or drug or a separate violation of vehicular manslaughter while operating a vessel within a seven-year period shall be subject to imprisonment in the county jail for not more than one year.~~

This bill would, instead, require, as a condition of probation, the person to participate in, and successfully complete, a licensed, ~~alcohol or drug recovery services~~ *driving-under-the-influence* program in conformance with existing provisions applicable to ~~driving under the influence~~ *driving-under-the-influence* motor vehicle offenses. ~~The bill would revise the penalty provision regarding a second offense or~~

~~separate violation to apply instead if that offense or violation was committed within a ten-year period.~~

Existing law provides that a separate offense that resulted in a conviction of a violation of vehicular manslaughter while operating a vessel under the influence of an alcoholic beverage or drug is a separate violation for purposes of driving a vehicle while under the influence of an alcoholic beverage or drug.

This bill would further provide that this separate offense would result in a suspension or revocation of the person's driving privilege *if the person has a prior boating-under-the-influence or driving-under-the-influence offense within a 7-year period.*

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 668 of the Harbors and Navigation Code
- 2 is amended to read:
- 3 668. (a) A person who violates subdivision (c) of Section 652,
- 4 Section 654, 654.05, 654.06, 655.7, 658.3, 659, 673, 674, or 754,
- 5 or any regulations adopted pursuant thereto, or any regulation
- 6 adopted pursuant to Section 655.3 relating to vessel equipment
- 7 requirements, is guilty of an infraction, punishable by a fine of not
- 8 more than two hundred fifty dollars (\$250).
- 9 (b) (1) A person who violates Section 655.2, or any regulation
- 10 adopted pursuant thereto, or, except as provided in subdivision
- 11 (a), any regulation adopted pursuant to Section 655.3, is guilty of
- 12 a misdemeanor and shall be punished by a fine of not more than
- 13 one hundred dollars (\$100) or imprisonment in the county jail for
- 14 not more than five days, or by both that fine and imprisonment,
- 15 for each violation.
- 16 (2) A person who violates subdivision (a) or (b) of Section 658
- 17 is guilty of a misdemeanor and shall be punished by a fine of not
- 18 more than two hundred dollars (\$200) for each violation.

(3) A person who violates subdivision (d) of Section 652, Section 652.5, subdivision (a) of Section 655, Section 655.05, 656, or 656.1, subdivision (d) or (e) of Section 658, Section 663.6 or 665, or any rules and regulations adopted pursuant to subdivision (b) or (c) of Section 660, is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000) or imprisonment in the county jail for not more than six months, or by both that fine and imprisonment, for each violation.

(c) (1) A person convicted of a violation of Section 656.2 or 656.3 shall be punished by a fine of not less than one thousand dollars (\$1,000) or more than ten thousand dollars (\$10,000), or by imprisonment in the state prison or in the county jail for not more than one year, or by both that fine and imprisonment.

(2) In imposing the minimum fine required by this subdivision, the court shall take into consideration the defendant's ability to pay the fine and, in the interest of justice for reasons stated in the record, may reduce the amount of that minimum fine to less than the amount otherwise required by this subdivision.

(d) A person convicted of a violation of Section 658.5 shall be punished by a fine of not more than one hundred dollars (\$100).

(e) ~~(1)~~ A person convicted of a first violation of subdivision (b), (c), (d), or (e) of Section 655, or of a violation of Section 655.4, shall be punished by a fine of not more than one thousand dollars (\$1,000) or imprisonment in the county jail for not more than six months, or by both that fine and imprisonment. If probation is granted, the court shall impose, as a condition of probation, a requirement that the person participate in, and successfully complete, a licensed alcohol or drug recovery services program in conformance with Section 23538 of the Vehicle Code in, and successfully complete, a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code described in subdivision (b) of Section 23538 of the Vehicle Code, in addition to imposing any penalties required by this code.

(f) A person convicted of a second or subsequent violation of subdivision (b), (c), (d), ~~or (e)~~ (e), or (f) of Section 655 within ten seven years of the first conviction of any of those subdivisions ~~or subdivision (f) of Section 655~~, or any person convicted of a violation of subdivision (b), (c), (d), or (e) of Section 655 within ~~ten~~ seven years of a separate conviction of Section 191.5 or subdivision (a) or (b) of Section 192.5 of the Penal Code, or a

1 separate conviction of Section 23152 or 23153 of the Vehicle Code
2 ~~or Section 191.5 or subdivision (a) of Section 192.5 of the Penal~~
3 ~~Code~~, when the separate conviction resulted from the operation
4 of a motor vehicle *or a motorized vessel*, shall be punished by a
5 fine of not more than one thousand dollars (\$1,000) or
6 imprisonment in the county jail for not more than one year, or by
7 both that fine and imprisonment. If probation is granted, the court
8 shall impose, as a condition of probation, a requirement that the
9 person ~~do~~ *participate, and successfully complete*, either of the
10 following *in conformance with Section 23542, 23548, or 23552*
11 *of the Vehicle Code*, if available in the county of the person's
12 residence or employment:

13 ~~(1) Participate, for at least 18 months subsequent to the~~
14 ~~underlying conviction and in a manner satisfactory to the court,~~
15 ~~in a~~

16 *(1) For at least 18 months subsequent to the underlying*
17 *conviction and in a manner satisfactory to the court, a*
18 *driving-under-the-influence* program licensed pursuant to Chapter
19 9 (commencing with Section 11836) of Part 2 of Division 10.5 of
20 the Health and Safety Code, as designated by the court. In order
21 to enable all required persons to participate, each person shall pay
22 the program costs commensurate with the person's ability to pay
23 as determined pursuant to Section 11837.4 of the Health and Safety
24 Code.

25 ~~(2) Participate, for~~ *For* at least 30 months subsequent to the
26 underlying conviction and in a manner satisfactory to the court,
27 ~~in a~~ *a driving-under-the-influence* program licensed pursuant to
28 Chapter 9 (commencing with Section 11836) of Part 2 of Division
29 10.5 of the Health and Safety Code. A person ordered to treatment
30 pursuant to this paragraph shall apply to the court or to a board of
31 review, as designated by the court, at the conclusion of the program
32 to obtain the court's order of satisfaction. Only upon the granting
33 of that order of satisfaction by the court may the program issue its
34 certificate of successful completion. A failure to obtain an order
35 of satisfaction at the conclusion of the program is a violation of
36 probation. In order to enable all required persons to participate,
37 each person shall pay the program costs commensurate with the
38 person's ability to pay as determined pursuant to Section 11837.4
39 of the Health and Safety Code. A condition of probation required

pursuant to this subdivision is not a basis for reducing any other probation requirement.

(g) A person convicted of a first violation of subdivision (f) of Section 655 shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days or more than one year, and by a fine of not less than two hundred fifty dollars (\$250) or more than five thousand dollars (\$5,000). If probation is granted, the court shall impose, as a condition of probation, a requirement that the person participate in, and successfully complete, a ~~licensed alcohol and drug recovery services program in conformance with Section 23556 of the Vehicle Code.~~ *licensed driving-under-the-influence program in conformance with Section 23566 of the Vehicle Code.*

(h) (1) If a person is convicted of a violation of subdivision (f) of Section 655 within ~~10~~ seven years of a separate conviction of a violation of subdivision (b), (c), (d), or (e) of Section 655 and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for not less than five days or more than one year and pay a fine of not less than two hundred fifty dollars (\$250) or more than five thousand dollars (\$5,000). In addition, the court shall impose, as a condition of probation, a requirement that the person participate in, and successfully complete, a ~~licensed alcohol and drug recovery services program in conformance with Section 23562 of the Vehicle Code.~~ *driving-under-the-influence program in conformance with Section 23568 of the Vehicle Code.*

(2) If a person is convicted of a violation of subdivision (f) of Section 655 within ~~10~~ seven years of a separate conviction of a violation of subdivision (f) of Section 655, ~~of Section 191.5 or subdivision (a) or (b) of Section 192.5 of the Penal Code, or Section 23152 or 23153 of the Vehicle Code or Section 191.5 or subdivision (a) of Section 192.5 of the Penal Code,~~ when the separate conviction resulted from the operation of a motor vehicle *or motorized vessel*, and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for not less than 90 days or more than one year, and pay a fine of not less than two hundred fifty dollars (\$250) or more than five thousand dollars (\$5,000). In addition, the court shall impose, as a condition of probation, a requirement that the person participate in, and successfully complete, a ~~licensed alcohol and drug recovery~~

1 ~~services driving-under-the-influence~~ program in conformance with
2 Section 23568 of the Vehicle Code.

3 (i) The court shall not absolve a person who is convicted of a
4 violation of subdivision (f) of Section 655 within seven years of
5 a separate conviction of a violation of subdivision (b), (c), (d), (e),
6 or (f) of Section 655, ~~of Section 191.5 or~~ subdivision (a) or (b) of
7 Section 192.5 of the Penal Code, or Section 23152 or 23153 of the
8 Vehicle Code ~~or Section 191.5 or subdivision (a) of Section 192.5~~
9 ~~of the Penal Code~~, when the separate conviction resulted from the
10 operation of a motor vehicle *or motorized vessel*, from the
11 minimum time in confinement provided in this section and a fine
12 of at least two hundred fifty dollars (\$250), except as provided in
13 subdivision (h).

14 (j) The court shall not strike a separate conviction of an offense
15 under subdivision (b), (c), (d), (e), or (f) of Section 655 ~~or of,~~
16 ~~Section 191.5 or~~ subdivision (a) or (b) of Section 192.5 of the
17 Penal Code, or Section 23152 or 23153 of the Vehicle Code ~~or~~
18 ~~Section 191.5 or subdivision (a) of Section 192.5 of the Penal~~
19 ~~Code~~, when the separate conviction resulted from the operation
20 of a motor vehicle *or motorized vessel*, for purposes of sentencing
21 in order to avoid imposing, as part of the sentence or as a term of
22 probation, the minimum time in confinement and the minimum
23 fine, as provided in this section. When a separate conviction is
24 stricken by the court for purposes of sentencing, the court shall
25 specify the reason or reasons for the striking order. On appeal by
26 the people from an order striking a separate conviction, it shall be
27 conclusively presumed that the order was made only for the reasons
28 specified in the order, and the order shall be reversed if there is no
29 substantial basis in the record for any of those reasons.

30 (k) A person who flees the scene of the crime after committing
31 a violation of Section 191.5 or paragraph (1) of subdivision (c) of
32 Section 192 of the Penal Code shall be subject to subdivision (c)
33 of Section 20001 of the Vehicle Code.

34 (l) A person who violates Section 654.3 is guilty of an infraction
35 punishable by a fine of not more than five hundred dollars (\$500)
36 for each separate violation.

37 SEC. 2. Section 11836 of the Health and Safety Code is
38 amended to read:

39 11836. (a) The department shall have the sole authority to
40 issue, deny, suspend, or revoke the license of a

1 driving-under-the-influence program. As used in this chapter,
2 “program” means any firm, partnership, association, corporation,
3 local governmental entity, agency, or place that has been initially
4 recommended by the county board of supervisors, subject to any
5 limitation imposed pursuant to subdivisions (c) and (d), and that
6 is subsequently licensed by the department to provide alcohol or
7 drug recovery services in that county to any of the following:

8 (1) A person whose license to drive has been administratively
9 suspended or revoked for, or who is convicted of, a violation of
10 Section 23152 or 23153 of the Vehicle Code, and admitted to a
11 program pursuant to Section 13352, 13352.1, 23538, 23542, 23548,
12 23552, 23556, 23562, or 23568 of the Vehicle Code.

13 (2) A person who is convicted of a violation of subdivision (b),
14 (c), (d), (e), or (f) of Section 655 of the Harbors and Navigation
15 Code, or of Section 655.4 of that code, and admitted to the program
16 pursuant to Section 668 of that code.

17 (3) A person who has pled guilty or nolo contendere to a charge
18 of a violation of Section 23103 of the Vehicle Code, under the
19 conditions set forth in subdivision (c) of Section 23103.5 of the
20 Vehicle Code, and who has been admitted to the program under
21 subdivision (e) or (f) of Section 23103.5 of the Vehicle Code.

22 (4) A person whose license has been suspended, revoked, or
23 delayed due to a violation of Section 23140, and who has been
24 admitted to a program under Article 2 (commencing with Section
25 23502) of Chapter 1 of Division 11.5 of the Vehicle Code.

26 (b) If a firm, partnership, corporation, association, local
27 government entity, agency, or place has, or is applying for, more
28 than one license, the department shall treat each licensed program,
29 or each program seeking licensure, as belonging to a separate firm,
30 partnership, corporation, association, local government entity,
31 agency, or place for the purposes of this chapter.

32 (c) For purposes of providing recommendations to the
33 department pursuant to subdivision (a), a county board of
34 supervisors may limit its recommendations to those programs that
35 provide services for persons convicted of a first
36 driving-under-the-influence offense, or services to those persons
37 convicted of a second or subsequent driving-under-the-influence
38 offense, or both services. If a county board of supervisors fails to
39 provide recommendations, the department shall determine the
40 program or programs to be licensed in that county.

(d) After determining a need, a county board of supervisors may also place one or more limitations on the services to be provided by a driving-under-the-influence program or the area the program may operate within the county, when it initially recommends a program to the department pursuant to subdivision (a).

(1) For purposes of this subdivision, a board of supervisors may restrict a program for those convicted of a first driving-under-the-influence offense to providing only a three-month program, or may restrict a program to those convicted of a second or subsequent driving-under-the-influence offense to providing only an 18-month program, as a condition of its recommendation.

(2) A board of supervisors may not place restrictions on a program that would violate a statute or regulation.

(3) When recommending a program, if a board of supervisors fails to place any limitation on a program pursuant to this subdivision, the department may license that program to provide any driving-under-the-influence program services that are allowed by law within that county.

(4) This subdivision is intended to apply only to the initial recommendation to the department for licensure of a program by the county. It is not intended to affect a license that has been previously issued by the department or the renewal of a license for a driving-under-the-influence program. In counties where a contract or other written agreement is currently in effect between the county and a licensed driving-under-the-influence program operating in that county, this subdivision is not intended to alter the terms of that relationship or the renewal of that relationship.

SEC. 3. ~~Section 23620 of the Vehicle Code is amended to read:~~

~~23620. (a) For the purposes of this division, Section 13352, and Chapter 12 (commencing with Section 23100) of Division 11, a separate offense that resulted in a conviction of a violation of subdivision (f) of Section 655 of the Harbors and Navigation Code or of Section 191.5 of, or subdivision (a) of Section 192.5 of, the Penal Code is a separate offense of a violation of Section 23153, and shall result in a suspension or revocation of the person's driving privilege pursuant to paragraphs (2), (4), and (6) of subdivision (a) of Section 13352.~~

~~(b) For the purposes of this division and Chapter 12 (commencing with Section 23100) of Division 11, and Section~~

~~13352, a separate offense that resulted in a conviction of a violation of subdivision (b), (c), (d), or (e) of Section 655 of the Harbors and Navigation Code is a separate violation of Section 23152, and shall result in a suspension or revocation of the person's driving privilege pursuant to paragraphs (1), (3), (5), or (7) of subdivision (a) of Section 13352 or of Section 13352.1.~~

SEC. 3. Section 13352 of the Vehicle Code is amended to read:

13352. (a) The department shall immediately suspend or revoke the privilege of a person to operate a motor vehicle upon the receipt of an abstract of the record of a court showing that the person has been convicted of a violation of Section 23152 or 23153, subdivision (a) of Section 23109, or Section 23109.1, or upon the receipt of a report of a judge of the juvenile court, a juvenile traffic hearing officer, or a referee of a juvenile court showing that the person has been found to have committed a violation of Section 23152 or 23153 or subdivision (a) of Section 23109 or Section 23109.1, *or upon the receipt of an abstract of the record of a court or upon the receipt of a report of a judge of the juvenile court, a juvenile traffic hearing officer, or a referee of a juvenile court showing that the person has been convicted of, or has been found to have committed a violation of, subdivision (b), (c), (d), (e), or (f) of Section 655 of the Harbors and Navigation Code, when the person has had a prior separate conviction of any of those subdivisions, or Section 191.5 or subdivision (a) of Section 192.5 of the Penal Code, or Section 23103.5, 23152, or 23153 of this code within seven years of this violation.* If an offense specified in this section occurs in a vehicle defined in Section 15210, the suspension or revocation specified below shall apply to the noncommercial driving privilege. The commercial driving privilege shall be disqualified as specified in Sections 15300 to 15302, inclusive. For the purposes of this section, suspension or revocation shall be as follows:

(1) Except as required under Section 13352.1 or Section 13352.4, upon a conviction or finding of a violation of Section 23152 punishable under Section 23536, *or upon a conviction or finding of a violation of Section 655 of the Harbors and Navigation Code, when the person has had a specified prior conviction,* the privilege shall be suspended for a period of six months.

The privilege ~~may~~ shall not be reinstated until the person gives proof of financial responsibility and gives proof satisfactory to the

1 department of successful completion of a
2 driving-under-the-influence program licensed pursuant to Section
3 11836 of the Health and Safety Code described in subdivision (b)
4 of Section 23538. If the court, as authorized under paragraph (3)
5 of subdivision (b) of Section 23646, elects to order a person to
6 enroll, participate, and complete either program described in
7 subdivision (b) of Section 23542, the department shall require that
8 program in lieu of the program described in subdivision (b) of
9 Section 23538. For the purposes of this paragraph, enrollment,
10 participation, and completion of an approved program shall be
11 subsequent to the date of the current violation. Credit ~~may~~ *shall*
12 not be given to any program activities completed prior to the date
13 of the current violation.

14 (2) Upon a conviction or finding of a violation of Section 23153
15 punishable under Section 23554, *or upon a conviction or finding*
16 *of a violation of Section 655 of the Harbors and Navigation Code,*
17 *when the person has had two or more specified prior convictions,*
18 the privilege shall be suspended for a period of one year. The
19 privilege ~~may~~ *shall* not be reinstated until the person gives proof
20 of financial responsibility and gives proof satisfactory to the
21 department of successful completion of a
22 driving-under-the-influence program licensed pursuant to Section
23 11836 of the Health and Safety Code as described in subdivision
24 (b) of Section 23556. If the court, as authorized under paragraph
25 (3) of subdivision (b) of Section 23646, elects to order a person
26 to enroll, participate, and complete either program described in
27 subdivision (b) of Section 23542, the department shall require that
28 program in lieu of the program described in Section 23556. For
29 the purposes of this paragraph, enrollment, participation, and
30 completion of an approved program shall be subsequent to the date
31 of the current violation. Credit ~~may~~ *shall* not be given to any
32 program activities completed prior to the date of the current
33 violation.

34 (3) Except as provided in Section 13352.5, upon a conviction
35 or finding of a violation of Section 23152 punishable under Section
36 23540, the privilege shall be suspended for two years. The privilege
37 ~~may~~ *shall* not be reinstated until the person gives proof of financial
38 responsibility and gives proof satisfactory to the department of
39 successful completion of a driving-under-the-influence program
40 licensed pursuant to Section 11836 of the Health and Safety Code,

as described in subdivision (b) of Section 23542. For the purposes of this paragraph, enrollment, participation, and completion of an approved program shall be subsequent to the date of the current violation. Credit shall not be given to any program activities completed prior to the date of the current violation. The department shall advise the person that after completion of 12 months of the suspension period, which may include credit for a suspension period served under subdivision (c) of Section 13353.3, the person may apply to the department for a restricted driver's license, subject to the following conditions:

(A) The person has satisfactorily provided, subsequent to the violation date of the current underlying conviction, either of the following:

(i) Proof of enrollment in an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code.

(ii) Proof of enrollment in a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, if available in the county of the person's residence or employment.

(B) The person agrees, as a condition of the restriction, to continue satisfactory participation in the program described in subparagraph (A).

(C) The person submits the "Verification of Installation" form described in paragraph (2) of subdivision (g) of Section 13386.

(D) The person agrees to maintain the ignition interlock device as required under subdivision (g) of Section 23575.

(E) The person provides proof of financial responsibility, as defined in Section 16430.

(F) The person pays all administrative fees or reissue fees and any restriction fee required by the department.

(G) The restriction shall remain in effect for the period required in subdivision (f) of Section 23575.

(4) Except as provided in this paragraph, upon a conviction or finding of a violation of Section 23153 punishable under Section 23560, the privilege shall be revoked for a period of three years. The privilege ~~may~~ *shall* not be reinstated until the person gives proof of financial responsibility, and the person gives proof satisfactory to the department of successful completion of a driving-under-the-influence program licensed pursuant to Section

1 11836 of the Health and Safety Code, as described in paragraph
2 (4) of subdivision (b) of Section 23562. For the purposes of this
3 paragraph, enrollment, participation, and completion of an
4 approved program shall be subsequent to the date of the current
5 violation. Credit shall not be given to any program activities
6 completed prior to the date of the current violation. The department
7 shall advise the person that after the completion of 12 months of
8 the revocation period, which may include credit for a suspension
9 period served under subdivision (c) of Section 13353.3, the person
10 may apply to the department for a restricted driver's license, subject
11 to the following conditions:

12 (A) The person has satisfactorily completed, subsequent to the
13 violation date of the current underlying conviction, either of the
14 following:

15 (i) The initial 12 months of an 18-month
16 driving-under-the-influence program licensed pursuant to Section
17 11836 of the Health and Safety Code.

18 (ii) The initial 12 months of a 30-month
19 driving-under-the-influence program licensed pursuant to Section
20 11836 of the Health and Safety Code, if available in the county of
21 the person's residence or employment, and the person agrees, as
22 a condition of the restriction, to continue satisfactory participation
23 in that 30-month program.

24 (B) The person submits the "Verification of Installation" form
25 described in paragraph (2) of subdivision (g) of Section 13386.

26 (C) The person agrees to maintain the ignition interlock device
27 as required under subdivision (g) of Section 23575.

28 (D) The person provides proof of financial responsibility, as
29 defined in Section 16430.

30 (E) The person pays all applicable reinstatement or reissue fees
31 and any restriction fee required by the department.

32 (F) The restriction shall remain in effect for the period required
33 in subdivision (f) of Section 23575.

34 (5) Except as provided in this paragraph, upon a conviction or
35 finding of a violation of Section 23152 punishable under Section
36 23546, the privilege shall be revoked for a period of three years.
37 The privilege ~~may~~ *shall* not be reinstated until the person files
38 proof of financial responsibility and gives proof satisfactory to the
39 department of successful completion of one of the following
40 programs: an 18-month driving-under-the-influence program

1 licensed pursuant to Section 11836 of the Health and Safety Code,
2 as described in subdivision (b) or (c) of Section 23548, or, if
3 available in the county of the person's residence or employment,
4 a 30-month driving-under-the-influence program licensed pursuant
5 to Section 11836 of the Health and Safety Code, or a program
6 specified in Section 8001 of the Penal Code. For the purposes of
7 this paragraph, enrollment, participation, and completion of an
8 approved program shall be subsequent to the date of the current
9 violation. Credit shall not be given to any program activities
10 completed prior to the date of the current violation. The department
11 shall advise the person that after completion of 12 months of the
12 revocation period, which may include credit for a suspension period
13 served under subdivision (c) of Section 13353.3, the person may
14 apply to the department for a restricted driver's license, subject to
15 the following conditions:

16 (A) The person has satisfactorily completed, subsequent to the
17 violation date of the current underlying conviction, either of the
18 following:

19 (i) The initial 12 months of an 18-month
20 driving-under-the-influence program licensed pursuant to Section
21 11836 of the Health and Safety Code.

22 (ii) The initial 12 months of a 30-month
23 driving-under-the-influence program licensed pursuant to Section
24 11836 of the Health and Safety Code, if available in the county of
25 the person's residence or employment, and the person agrees, as
26 a condition of the restriction, to continue satisfactory participation
27 in the 30-month driving-under-the-influence program.

28 (B) The person submits the "Verification of Installation" form
29 described in paragraph (2) of subdivision (g) of Section 13386.

30 (C) The person agrees to maintain the ignition interlock device
31 as required under subdivision (g) of Section 23575.

32 (D) The person provides proof of financial responsibility, as
33 defined in Section 16430.

34 (E) An individual convicted of a violation of Section 23152
35 punishable under Section 23546 may also, at any time after
36 sentencing, petition the court for referral to an 18-month
37 driving-under-the-influence program licensed pursuant to Section
38 11836 of the Health and Safety Code, or, if available in the county
39 of the person's residence or employment, a 30-month
40 driving-under-the-influence program licensed pursuant to Section

1 11836 of the Health and Safety Code. Unless good cause is shown,
2 the court shall order the referral.

3 (F) The person pays all applicable reinstatement or reissue fees
4 and any restriction fee required by the department.

5 (G) The restriction shall remain in effect for the period required
6 in subdivision (f) of Section 23575.

7 (6) Except as provided in this paragraph, upon a conviction or
8 finding of a violation of Section 23153 punishable under Section
9 23550.5 or 23566, the privilege shall be revoked for a period of
10 five years. The privilege ~~may~~ *shall* not be reinstated until the person
11 gives proof of financial responsibility and proof satisfactory to the
12 department of successful completion of one of the following
13 programs: an 18-month driving-under-the-influence program
14 licensed pursuant to Section 11836 of the Health and Safety Code,
15 as described in subdivision (b) of Section 23568 or, if available in
16 the county of the person's residence or employment, a 30-month
17 driving-under-the-influence program licensed pursuant to Section
18 11836 of the Health and Safety Code, or a program specified in
19 Section 8001 of the Penal Code. For the purposes of this paragraph,
20 enrollment, participation, and completion of an approved program
21 shall be subsequent to the date of the current violation. Credit shall
22 not be given to any program activities completed prior to the date
23 of the current violation. The department shall advise the person
24 that after the completion of 12 months of the revocation period,
25 which may include credit for a suspension period served under
26 subdivision (c) of Section 13353.3, the person may apply to the
27 department for a restricted driver's license, subject to the following
28 conditions:

29 (A) The person has satisfactorily completed, subsequent to the
30 violation date of the current underlying conviction, either of the
31 following:

32 (i) The initial 12 months of a 30-month
33 driving-under-the-influence program licensed pursuant to Section
34 11836 of the Health and Safety Code, if available in the county of
35 the person's residence or employment, and the person agrees, as
36 a condition of the restriction, to continue satisfactory participation
37 in the 30-month driving-under-the-influence program.

38 (ii) The initial 12 months of an 18-month
39 driving-under-the-influence program licensed pursuant to Section

1 11836 of the Health and Safety Code, if a 30-month program is
2 unavailable in the person's county of residence or employment.

3 (B) The person submits the "Verification of Installation" form
4 described in paragraph (2) of subdivision (g) of Section 13386.

5 (C) The person agrees to maintain the ignition interlock device
6 as required under subdivision (g) of Section 23575.

7 (D) The person provides proof of financial responsibility, as
8 defined in Section 16430.

9 (E) An individual convicted of a violation of Section 23153
10 punishable under Section 23566 may also, at any time after
11 sentencing, petition the court for referral to an 18-month
12 driving-under-the-influence program or, if available in the county
13 of the person's residence or employment, a 30-month
14 driving-under-the-influence program licensed pursuant to Section
15 11836 of the Health and Safety Code. Unless good cause is shown,
16 the court shall order the referral.

17 (F) The person pays all applicable reinstatement or reissue fees
18 and any restriction fee required by the department.

19 (G) The restriction shall remain in effect for the period required
20 in subdivision (f) of Section 23575.

21 (7) Except as provided in this paragraph, upon a conviction or
22 finding of a violation of Section 23152 punishable under Section
23 23550 or 23550.5, or Section 23153 punishable under Section
24 23550.5 the privilege shall be revoked for a period of four years.
25 The privilege ~~may~~ *shall* not be reinstated until the person gives
26 proof of financial responsibility and proof satisfactory to the
27 department of successful completion of one of the following
28 programs: an 18-month driving-under-the-influence program
29 licensed pursuant to Section 11836 of the Health and Safety Code,
30 or, if available in the county of the person's residence or
31 employment, a 30-month driving-under-the-influence program
32 licensed pursuant to Section 11836 of the Health and Safety Code,
33 or a program specified in Section 8001 of the Penal Code. For the
34 purposes of this paragraph, enrollment, participation, and
35 completion of an approved program shall be subsequent to the date
36 of the current violation. Credit shall not be given to any program
37 activities completed prior to the date of the current violation. The
38 department shall advise the person that after the completion of 12
39 months of the revocation period, which may include credit for a
40 suspension period served under subdivision (c) of Section 13353.3,

1 the person may apply to the department for a restricted driver's
2 license, subject to the following conditions:

3 (A) The person has satisfactorily completed, subsequent to the
4 violation date of the current underlying conviction, either of the
5 following:

6 (i) The initial 12 months of an 18-month
7 driving-under-the-influence program licensed pursuant to Section
8 11836 of the Health and Safety Code.

9 (ii) The initial 12 months of a 30-month
10 driving-under-the-influence program licensed pursuant to Section
11 11836 of the Health and Safety Code, if available in the county of
12 the person's residence or employment, and the person agrees, as
13 a condition of the restriction, to continue satisfactory participation
14 in the 30-month driving-under-the-influence program.

15 (B) The person submits the "Verification of Installation" form
16 described in paragraph (2) of subdivision (g) of Section 13386.

17 (C) The person agrees to maintain the ignition interlock device
18 as required under subdivision (g) of Section 23575.

19 (D) The person provides proof of financial responsibility, as
20 defined in Section 16430.

21 (E) An individual convicted of a violation of Section 23152
22 punishable under Section 23550 may also, at any time after
23 sentencing, petition the court for referral to an 18-month
24 driving-under-the-influence program or, if available in the county
25 of the person's residence or employment, a 30-month
26 driving-under-the-influence program licensed pursuant to Section
27 11836 of the Health and Safety Code. Unless good cause is shown,
28 the court shall order the referral.

29 (F) The person pays all applicable reinstatement or reissue fees
30 and any restriction fee required by the department.

31 (G) The restriction shall remain in effect for the period required
32 in subdivision (f) of Section 23575.

33 (8) Upon a conviction or finding of a violation of Section
34 23109.1 or subdivision (a) of Section 23109 that is punishable
35 under subdivision (e) of that section, the privilege shall be
36 suspended for a period of 90 days to six months, if ordered by the
37 court. The privilege ~~may~~ *shall* not be reinstated until the person
38 gives proof of financial responsibility, as defined in Section 16430.

39 (9) Upon a conviction or finding of a violation of subdivision
40 (a) of Section 23109 that is punishable under subdivision (f) of

1 that section, the privilege shall be suspended for a period of six
2 months, if ordered by the court. The privilege ~~may~~ *shall* not be
3 reinstated until the person gives proof of financial responsibility,
4 as defined in Section 16430.

5 (b) For the purpose of paragraphs (2) to (9), inclusive, of
6 subdivision (a), the finding of the juvenile court judge, the juvenile
7 hearing officer, or the referee of a juvenile court of a commission
8 of a violation of Section 23152 or 23153 or subdivision (a) of
9 Section 23109 or Section 23109.1, as specified in subdivision (a)
10 of this section, is a conviction.

11 (c) A judge of a juvenile court, juvenile hearing officer, or
12 referee of a juvenile court shall immediately report the findings
13 specified in subdivision (a) to the department.

14 (d) A conviction of an offense in a state, territory, or possession
15 of the United States, the District of Columbia, the Commonwealth
16 of Puerto Rico, or Canada that, if committed in this state, would
17 be a violation of Section 23152, is a conviction of Section 23152
18 for the purposes of this section, and a conviction of an offense
19 that, if committed in this state, would be a violation of Section
20 23153, is a conviction of Section 23153 for the purposes of this
21 section. The department shall suspend or revoke the privilege to
22 operate a motor vehicle pursuant to this section upon receiving
23 notice of that conviction.

24 (e) For the purposes of the restriction conditions specified in
25 paragraphs (3) to (7), inclusive, of subdivision (a), the department
26 shall terminate the restriction imposed pursuant to this section and
27 shall suspend or revoke the person's driving privilege upon receipt
28 of notification from the driving-under-the-influence program that
29 the person has failed to comply with the program requirements.
30 The person's driving privilege shall remain suspended or revoked
31 for the remaining period of the original suspension or revocation
32 imposed under this section and until all reinstatement requirements
33 described in this section are met.

34 (f) For the purposes of this section, completion of a program is
35 the following:

36 (1) Satisfactory completion of all program requirements
37 approved pursuant to program licensure, as evidenced by a
38 certificate of completion issued, under penalty of perjury, by the
39 licensed program.

1 (2) Certification, under penalty of perjury, by the director of a
2 program specified in Section 8001 of the Penal Code, that the
3 person has completed a program specified in Section 8001 of the
4 Penal Code.

5 (g) The holder of a commercial driver's license who was
6 operating a commercial motor vehicle, as defined in Section 15210,
7 at the time of a violation that resulted in a suspension or revocation
8 of the person's noncommercial driving privilege under this section
9 is not eligible for the restricted driver's license authorized under
10 paragraphs (3) to (7), inclusive, of subdivision (a).

11 SEC. 4. No reimbursement is required by this act pursuant to
12 Section 6 of Article XIII B of the California Constitution because
13 the only costs that may be incurred by a local agency or school
14 district will be incurred because this act creates a new crime or
15 infraction, eliminates a crime or infraction, or changes the penalty
16 for a crime or infraction, within the meaning of Section 17556 of
17 the Government Code, or changes the definition of a crime within
18 the meaning of Section 6 of Article XIII B of the California
19 Constitution.