

Senate Bill No. 895

Passed the Senate May 3, 2010

Secretary of the Senate

Passed the Assembly June 21, 2010

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 13352.5, 13353.3, and 23247 of the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 895, Huff. Vehicles: driver's license: suspension.

(1) Existing law that will become operative on July 1, 2010, authorizes a person who has been convicted of specified driving under the influence (DUI) offenses and who has had his or her driving privilege suspended or revoked to apply to the Department of Motor Vehicles for a restricted driver's license, if certain conditions, including that the person has installed an ignition interlock device, are met.

Existing law requires the department to immediately suspend the driving privilege of a person if the person was driving a motor vehicle with 0.08% or more of alcohol in his or her blood, the person was under 21 years of age and had a blood-alcohol level of 0.01% or more, the person was driving a vehicle that requires a commercial driver's license and had 0.04% or more of alcohol in his or her blood, or the person was driving a motor vehicle when he or she was on probation for a specified DUI violation and had 0.01% or more of alcohol in his or her blood. If the person has been convicted of one or more separate DUI violations, has been administratively determined to have refused chemical testing, or has been administratively determined to have been driving with an excessive concentration of alcohol on a separate occasion, which offense or occasion occurred within 10 years of the occasion in question, existing law requires the period of suspension to be one year.

This bill would require the one-year suspension to terminate if the person has been convicted of a violation arising out of the same occurrence and the person meets specified conditions, including that he or she is otherwise eligible for a restricted driver's license and installs an ignition interlock device for purposes of that restricted driver's license.

(2) Existing law requires the Department of Motor Vehicle's, before July 1, 2010, to issue a restricted driver's license to a person restricting the person's driving privilege to the hours necessary for driving to and from the place of employment, driving during the course of employment, and driving to and from activities required in the drug and alcohol treatment program if the person completes not less than 12 months of the suspension period imposed pursuant to the punishment for the second conviction of driving under the influence where the conviction is related to driving under the influence of alcohol beverage only and satisfies other requirements. Existing law requires the department, on or after July 1, 2010, to issue the restricted driver's license if the person completes not less than 90 days of the suspension period and satisfies other requirements.

This bill would instead require the department, on or after July 1, 2010, to issue a restricted driver's license only if the person has completed not less than 12 months of the suspension period.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. Section 13352.5 of the Vehicle Code, as amended by Section 2 of Chapter 193 of the Statutes of 2009, is amended to read:

13352.5. (a) The department shall issue a restricted driver's license to a person whose driver's license was suspended under paragraph (3) of subdivision (a) of Section 13352, if all of the following requirements have been met:

(1) Proof satisfactory to the department of enrollment in, or completion of, a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, as described in subdivision (b) of Section 23542 has been received in the department's headquarters.

(2) The person submits proof of financial responsibility, as described in Section 16430.

(3) The person completes not less than 12 months of the suspension period imposed under paragraph (3) of subdivision (a) of Section 13352. The 12 months may include credit for any suspension period served under subdivision (c) of Section 13353.3.

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

(b) The restriction of the driving privilege shall become effective when the department receives all of the documents and fees required under subdivision (a) and shall remain in effect until the final day of the original suspension imposed under paragraph (3) of subdivision (a) of Section 13352, or until the date all reinstatement requirements described in Section 13352 have been met, whichever date is later.

(c) The restriction of the driving privilege shall be limited to the hours necessary for driving to and from the person's place of employment, driving during the course of employment, and driving to and from activities required in the driving-under-the-influence program.

(d) Whenever the driving privilege is restricted under this section, proof of financial responsibility, as defined in Section 16430, shall be maintained for three years. If the person does not maintain that proof of financial responsibility at any time during the restriction, the driving privilege shall be suspended until the proof required under Section 16484 is received by the department.

(e) For the purposes of this section, enrollment in, participation in, 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.

(f) The department shall terminate the restriction imposed pursuant to this section and shall suspend the privilege to drive under paragraph (3) of subdivision (a) of Section 13352 upon receipt of notification from the driving-under-the-influence program that the person has failed to comply with the program requirements.

(g) If, upon conviction, the court has made the determination, as authorized under subdivision (b) of Section 23540 or subdivision (d) of Section 23542, to disallow the issuance of a restricted driver's license, the department shall not issue a restricted driver's license under this section.

(h) A person restricted pursuant to this section may apply to the department for a restricted driver's license, subject to the conditions specified in paragraph (3) of subdivision (a) of Section 13352. Whenever proof of financial responsibility has already been

provided and a restriction fee has been paid in compliance with restrictions described in this section, and the offender subsequently receives an ignition interlock device restriction described in paragraph (3) of subdivision (a) of Section 13352, the proof of financial responsibility period shall not be extended beyond the previously established term and no additional restriction fee shall be required.

(i) This section applies to a person who meets all of the following conditions:

(1) Has been convicted of a violation of Section 23152 that occurred on or before July 1, 1999, and is punishable under Section 23540, or former Section 23165.

(2) Was granted probation for the conviction subject to conditions imposed under subdivision (b) of Section 23542, or under subdivision (b) of former Section 23166.

(3) Is no longer subject to the probation described in paragraph (2).

(4) Has not completed the licensed driving-under-the-influence program under paragraph (3) of subdivision (a) of Section 13352 for reinstatement of the driving privilege.

(5) Has no violations in his or her driving record that would preclude issuance of a restricted driver's license.

SEC. 2. Section 13353.3 of the Vehicle Code is amended to read:

13353.3. (a) An order of suspension of a person's privilege to operate a motor vehicle pursuant to Section 13353.2 shall become effective 30 days after the person is served with the notice pursuant to Section 13382 or 13388, or subdivision (b) of Section 13353.2.

(b) The period of suspension of a person's privilege to operate a motor vehicle under Section 13353.2 is as follows:

(1) If the person has not been convicted of a separate violation of Section 23103, as specified in Section 23103.5, or Section 23140, 23152, or 23153, or Section 191.5 or subdivision (a) of Section 192.5 of the Penal Code, the person has not been administratively determined to have refused chemical testing pursuant to Section 13353 or 13353.1, or the person has not been administratively determined to have been driving with an excessive concentration of alcohol pursuant to Section 13353.2 on a separate occasion, which offense or occurrence occurred within 10 years

of the occasion in question, the person's privilege to operate a motor vehicle shall be suspended for four months.

(2) (A) If the person has been convicted of one or more separate violations of Section 23103, as specified in Section 23103.5, or Section 23140, 23152, or 23153, or Section 191.5 or subdivision (a) of Section 192.5 of the Penal Code, the person has been administratively determined to have refused chemical testing pursuant to Section 13353 or 13353.1, or the person has been administratively determined to have been driving with an excessive concentration of alcohol pursuant to Section 13353.2 on a separate occasion, which offense or occasion occurred within 10 years of the occasion in question, the person's privilege to operate a motor vehicle shall be suspended for one year, except as provided in subparagraph (B).

(B) The one-year suspension pursuant to subparagraph (A) shall terminate if the person has been convicted of a violation arising out of the same occurrence and all of the following conditions are met:

(i) The person is eligible for a restricted driver's license pursuant to Section 13352.

(ii) The person installs an ignition interlock device as required in Section 13352 for that restricted driver's license.

(iii) The person complies with all other applicable conditions of Section 13352 for a restricted driver's license.

(3) Notwithstanding any other provision of law, if a person has been administratively determined to have been driving in violation of Section 23136 or to have refused chemical testing pursuant to Section 13353.1, the period of suspension shall not be for less than one year.

(c) If a person's privilege to operate a motor vehicle is suspended pursuant to Section 13353.2 and the person is convicted of a violation of Section 23152 or 23153, including, but not limited to, a violation described in Section 23620, arising out of the same occurrence, both the suspension under Section 13353.2 and the suspension or revocation under Section 13352 shall be imposed, except that the periods of suspension or revocation shall run concurrently, and the total period of suspension or revocation shall not exceed the longer of the two suspension or revocation periods.

(d) For the purposes of this section, a conviction of an offense in any state, territory, or possession of the United States, the

District of Columbia, the Commonwealth of Puerto Rico, or the Dominion of Canada that, if committed in this state, would be a violation of Section 23103, as specified in Section 23103.5, or Section 23140, 23152, or 23153, or Section 191.5 or subdivision (a) of Section 192.5 of the Penal Code, is a conviction of that particular section of the Vehicle Code or Penal Code.

SEC. 3. Section 23247 of the Vehicle Code is amended to read:

23247. (a) It is unlawful for a person to knowingly rent, lease, or lend a motor vehicle to another person known to have had his or her driving privilege restricted as provided in Section 13352, 23575, or 23700, unless the vehicle is equipped with a functioning, certified ignition interlock device. A person, whose driving privilege is restricted pursuant to Section 13352, 23575, or 23700 shall notify any other person who rents, leases, or loans a motor vehicle to him or her of the driving restriction imposed under that section.

(b) It is unlawful for any person whose driving privilege is restricted pursuant to Section 13352, 23575, or 23700 to request or solicit any other person to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing the person so restricted with an operable motor vehicle.

(c) It is unlawful to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing an operable motor vehicle to a person whose driving privilege is restricted pursuant to Section 13352, 23575, or 23700.

(d) It is unlawful to remove, bypass, or tamper with, an ignition interlock device.

(e) It is unlawful for any person whose driving privilege is restricted pursuant to Section 13352, 23575, or 23700 to operate any vehicle not equipped with a functioning ignition interlock device.

(f) Any person convicted of a violation of this section shall be punished by imprisonment in the county jail for not more than six months or by a fine of not more than five thousand dollars (\$5,000), or by both that fine and imprisonment.

(g) (1) If any person whose driving privilege is restricted pursuant to Section 13352 is convicted of a violation of subdivision (e), the court shall notify the Department of Motor Vehicles, which shall immediately terminate the restriction and shall suspend or

revoke the person's driving privilege for the remaining period of the originating suspension or revocation and until all reinstatement requirements in Section 13352 are met.

(2) If any person who is restricted pursuant to subdivision (a) or (l) of Section 23575 or Section 23700 is convicted of a violation of subdivision (e), the department shall suspend the person's driving privilege for one year from the date of the conviction.

(h) Notwithstanding any other provision of law, if a vehicle in which an ignition interlock device has been installed is impounded, the manufacturer or installer of the device shall have the right to remove the device from the vehicle during normal business hours. No charge shall be imposed for the removal of the device nor shall the manufacturer or installer be liable for any removal, towing, impoundment, storage, release, or administrative costs or penalties associated with the impoundment. Upon request, the person seeking to remove the device shall present documentation to justify removal of the device from the vehicle. Any damage to the vehicle resulting from the removal of the device is the responsibility of the person removing it.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make conforming changes to the Vehicle Code for statutory provisions that will be operative on July 1, 2010, it is necessary that this act take immediate effect.

Approved _____, 2010

Governor