

AMENDED IN SENATE AUGUST 21, 2012
AMENDED IN SENATE AUGUST 6, 2012
AMENDED IN ASSEMBLY MAY 2, 2012
AMENDED IN ASSEMBLY APRIL 19, 2012
AMENDED IN ASSEMBLY APRIL 9, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2552

Introduced by Assembly Member Torres

February 24, 2012

An act to amend and repeal Sections 23152 and 23153 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2552, as amended, Torres. Vehicles: driving under the influence: alcoholic beverage or drug.

Existing law prohibits a person who is under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, or who has 0.08% or more, by weight, of alcohol in his or her blood, or who is addicted to the use of any drug, to drive a vehicle. Existing law also makes it unlawful to drive under the influence and cause bodily injury to another person.

This bill would, *as of January 1, 2014*, revise and recast these provisions *to separately and distinctly define each of the above-described offenses*.

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

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

1 SECTION 1. Section 23152 of the Vehicle Code, as amended
2 by Section 31 of Chapter 455 of the Statutes of 1995, is amended
3 to read:

4 23152. (a) It is unlawful for any person who is under the
5 influence of any alcoholic beverage or drug, or under the combined
6 influence of any alcoholic beverage and drug, to drive a vehicle.

7 (b) It is unlawful for any person who has 0.08 percent or more,
8 by weight, of alcohol in his or her blood to drive a vehicle.

9 For purposes of this article and Section 34501.16, percent, by
10 weight, of alcohol in a person's blood is based upon grams of
11 alcohol per 100 milliliters of blood or grams of alcohol per 210
12 liters of breath.

13 In any prosecution under this subdivision, it is a rebuttable
14 presumption that the person had 0.08 percent or more, by weight,
15 of alcohol in his or her blood at the time of driving the vehicle if
16 the person had 0.08 percent or more, by weight, of alcohol in his
17 or her blood at the time of the performance of a chemical test
18 within three hours after the driving.

19 (c) It is unlawful for any person who is addicted to the use of
20 any drug to drive a vehicle. This subdivision shall not apply to a
21 person who is participating in a narcotic treatment program
22 approved pursuant to Article 3 (commencing with Section 11875)
23 of Chapter 1 of Part 3 of Division 10.5 of the Health and Safety
24 Code.

25 (d) It is unlawful for any person who has 0.04 percent or more,
26 by weight, of alcohol in his or her blood to drive a commercial
27 motor vehicle, as defined in Section 15210.

28 In any prosecution under this subdivision, it is a rebuttable
29 presumption that the person had 0.04 percent or more, by weight,
30 of alcohol in his or her blood at the time of driving the vehicle if
31 the person had 0.04 percent or more, by weight, of alcohol in his
32 or her blood at the time of the performance of a chemical test
33 within three hours after the driving.

34 ~~(e) This section shall become operative on January 1, 1992, and~~
35 ~~shall remain operative until the director determines that federal~~
36 ~~regulations adopted pursuant to the Commercial Motor Vehicle~~
37 ~~Safety Act of 1986 (49 U.S.C. Sec. 2701 et seq.) contained in~~
38 ~~Section 383.51 or 391.15 of Title 49 of the Code of Federal~~

1 ~~Regulations do not require the state to prohibit operation of~~
2 ~~commercial vehicles when the operator has a concentration of~~
3 ~~alcohol in his or her blood of 0.04 percent by weight or more.~~

4 ~~(f) The director shall submit a notice of the determination under~~
5 ~~subdivision (e) to the Secretary of State, and this section shall be~~
6 ~~repealed upon the receipt of that notice by the Secretary of State.~~

7 ~~(e) This section shall remain in effect only until January 1, 2014,~~
8 ~~and as of that date is repealed, unless a later enacted statute, that~~
9 ~~is enacted before January 1, 2014, deletes or extends that date.~~

10 ~~SECTION 1.~~

11 *SEC. 2.* Section 23152 of the Vehicle Code, as amended by
12 Section 31 of Chapter 455 of the Statutes of 1995, is amended to
13 read:

14 23152. (a) It is unlawful for a person who is under the
15 influence of any alcoholic beverage to drive a vehicle.

16 (b) It is unlawful for a person who has 0.08 percent or more, by
17 weight, of alcohol in his or her blood to drive a vehicle.

18 For purposes of this article and Section 34501.16, percent, by
19 weight, of alcohol in a person's blood is based upon grams of
20 alcohol per 100 milliliters of blood or grams of alcohol per 210
21 liters of breath.

22 In any prosecution under this subdivision, it is a rebuttable
23 presumption that the person had 0.08 percent or more, by weight,
24 of alcohol in his or her blood at the time of driving the vehicle if
25 the person had 0.08 percent or more, by weight, of alcohol in his
26 or her blood at the time of the performance of a chemical test
27 within three hours after the driving.

28 (c) It is unlawful for a person who is addicted to the use of any
29 drug to drive a vehicle. This subdivision shall not apply to a person
30 who is participating in a narcotic treatment program approved
31 pursuant to Article 3 (commencing with Section 11875) of Chapter
32 1 of Part 3 of Division 10.5 of the Health and Safety Code.

33 (d) It is unlawful for a person who has 0.04 percent or more, by
34 weight, of alcohol in his or her blood to drive a commercial motor
35 vehicle, as defined in Section 15210.

36 In any prosecution under this subdivision, it is a rebuttable
37 presumption that the person had 0.04 percent or more, by weight,
38 of alcohol in his or her blood at the time of driving the vehicle if
39 the person had 0.04 percent or more, by weight, of alcohol in his

1 or her blood at the time of the performance of a chemical test
2 within three hours after the driving.

3 (e) It is unlawful for a person who is under the influence of any
4 drug to drive a vehicle.

5 (f) It is unlawful for a person who is under the combined
6 influence of any alcoholic beverage and drug to drive a vehicle.

7 (g) *This section shall become operative on January 1, 2014.*

8 ~~SEC. 2.~~

9 *SEC. 3.* Section 23152 of the Vehicle Code, as amended by
10 Section 32 of Chapter 455 of the Statutes of 1995, is repealed.

11 *SEC. 4.* *Section 23153 of the Vehicle Code, as amended by*
12 *Section 18 of Chapter 974 of the Statutes of 1992, is amended to*
13 *read:*

14 23153. (a) It is unlawful for any person, while under the
15 influence of any alcoholic beverage or drug, or under the combined
16 influence of any alcoholic beverage and drug, to drive a vehicle
17 and concurrently do any act forbidden by law, or neglect any duty
18 imposed by law in driving the vehicle, which act or neglect
19 proximately causes bodily injury to any person other than the
20 driver.

21 (b) It is unlawful for any person, while having 0.08 percent or
22 more, by weight, of alcohol in his or her blood to drive a vehicle
23 and concurrently do any act forbidden by law, or neglect any duty
24 imposed by law in driving the vehicle, which act or neglect
25 proximately causes bodily injury to any person other than the
26 driver.

27 In any prosecution under this subdivision, it is a rebuttable
28 presumption that the person had 0.08 percent or more, by weight,
29 of alcohol in his or her blood at the time of driving the vehicle if
30 the person had 0.08 percent or more, by weight, of alcohol in his
31 or her blood at the time of the performance of a chemical test
32 within three hours after driving.

33 (c) In proving the person neglected any duty imposed by law
34 in driving the vehicle, it is not necessary to prove that any specific
35 section of this code was violated.

36 (d) It is unlawful for any person, while having 0.04 percent or
37 more, by weight, of alcohol in his or her blood to drive a
38 commercial motor vehicle, as defined in Section 15210, and
39 concurrently to do any act forbidden by law or neglect any duty
40 imposed by law in driving the vehicle, which act or neglect

1 proximately causes bodily injury to any person other than the
2 driver.

3 In any prosecution under this subdivision, it is a rebuttable
4 presumption that the person had 0.04 percent or more, by weight,
5 of alcohol in his or her blood at the time of driving the vehicle if
6 the person had 0.04 percent or more, by weight, of alcohol in his
7 or her blood at the time of performance of a chemical test within
8 three hours after driving.

9 ~~(e) This section shall become operative on January 1, 1992, and~~
10 ~~shall remain operative until the director determines that federal~~
11 ~~regulations adopted pursuant to the Commercial Motor Vehicle~~
12 ~~Act of 1986 (49 U.S.C. Sec. 2701 et seq.) contained in Section~~
13 ~~383.51 or 391.15 of Title 49 of the Code of Federal Regulations~~
14 ~~do not require the state to prohibit operation of commercial vehicles~~
15 ~~when the operator has a concentration of alcohol in his or her blood~~
16 ~~of 0.04 percent by weight or more.~~

17 ~~(f) The director shall submit a notice of the determination under~~
18 ~~subdivision (e) to the Secretary of State, and this section shall be~~
19 ~~repealed upon the receipt of that notice by the Secretary of State.~~

20 *(e) This section shall remain in effect only until January 1, 2014,*
21 *and as of that date is repealed, unless a later enacted statute, that*
22 *is enacted before January 1, 2014, deletes or extends that date.*

23 ~~SEC. 3.~~

24 *SEC. 5.* Section 23153 of the Vehicle Code, as amended by
25 Section 18 of Chapter 974 of the Statutes of 1992, is amended to
26 read:

27 23153. (a) It is unlawful for a person, while under the influence
28 of any alcoholic beverage to drive a vehicle and concurrently do
29 any act forbidden by law, or neglect any duty imposed by law in
30 driving the vehicle, which act or neglect proximately causes bodily
31 injury to any person other than the driver.

32 (b) It is unlawful for a person, while having 0.08 percent or
33 more, by weight, of alcohol in his or her blood to drive a vehicle
34 and concurrently do any act forbidden by law, or neglect any duty
35 imposed by law in driving the vehicle, which act or neglect
36 proximately causes bodily injury to any person other than the
37 driver.

38 In any prosecution under this subdivision, it is a rebuttable
39 presumption that the person had 0.08 percent or more, by weight,
40 of alcohol in his or her blood at the time of driving the vehicle if

1 the person had 0.08 percent or more, by weight, of alcohol in his
2 or her blood at the time of the performance of a chemical test
3 within three hours after driving.

4 (c) In proving the person neglected any duty imposed by law
5 in driving the vehicle, it is not necessary to prove that any specific
6 section of this code was violated.

7 (d) It is unlawful for a person, while having 0.04 percent or
8 more, by weight, of alcohol in his or her blood to drive a
9 commercial motor vehicle, as defined in Section 15210, and
10 concurrently to do any act forbidden by law or neglect any duty
11 imposed by law in driving the vehicle, which act or neglect
12 proximately causes bodily injury to any person other than the
13 driver.

14 In any prosecution under this subdivision, it is a rebuttable
15 presumption that the person had 0.04 percent or more, by weight,
16 of alcohol in his or her blood at the time of driving the vehicle if
17 the person had 0.04 percent or more, by weight, of alcohol in his
18 or her blood at the time of performance of a chemical test within
19 three hours after driving.

20 (e) It is unlawful for a person, while under the influence of any
21 drug, to drive a vehicle and concurrently do any act forbidden by
22 law, or neglect any duty imposed by law in driving the vehicle,
23 which act or neglect proximately causes bodily injury to any person
24 other than the driver.

25 (f) It is unlawful for a person, while under the combined
26 influence of any alcoholic beverage and drug, to drive a vehicle
27 and concurrently do any act forbidden by law, or neglect any duty
28 imposed by law in driving the vehicle, which act or neglect
29 proximately causes bodily injury to any person other than the
30 driver.

31 (g) *This section shall become operative on January 1, 2014.*

32 ~~SEC. 4.~~

33 *SEC. 6.* Section 23153 of the Vehicle Code, as amended by
34 Section 19 of Chapter 974 of the Statutes of 1992, is repealed.