

AMENDED IN SENATE JUNE 13, 2016

AMENDED IN SENATE JUNE 30, 2015

AMENDED IN SENATE JUNE 16, 2015

AMENDED IN ASSEMBLY APRIL 7, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 933**

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**Introduced by Assembly Member Frazier**

February 26, 2015

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An act to ~~amend Section 1808 of~~ *add Section 23582.5 to* the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 933, as amended, Frazier. Vehicles: ~~DMV records.~~ *24/7 Sobriety programs.*

*Existing law prohibits a person who has 0.08% or more, by weight, of alcohol in his or her blood from driving a vehicle. Existing law also prohibits a person while having 0.08% or more, by weight, of alcohol in his or her blood from driving a vehicle and concurrently doing any act forbidden by law, or neglecting any duty imposed by law in driving the vehicle, when the act or neglect proximately causes bodily injury to a person other than the driver. A violation of either of these prohibitions is a crime. Existing law authorizes a court, in addition to imposing penalties and sanctions for those violations, to require the person to enroll and participate in, and successfully complete, a driving-under-the-influence program, which may include, among other things, education, group counseling, and individual interview sessions.*

*Existing law requires the Department of Motor Vehicles to immediately suspend a person's privilege to operate a motor vehicle for a specified period of time if the person has driven a motor vehicle when the person had a certain blood-alcohol concentration. Existing law also requires the department to suspend or revoke the driving privilege of a person who refuses an officer's request or fails to complete a chemical test or tests, as specified. Existing law authorizes certain individuals whose privilege is suspended or revoked pursuant to that provision to receive a restricted driver's license if specified requirements are met, including the completion of specified periods of license suspension or revocation and, in some instances, the installation of an ignition interlock device on the person's vehicle.*

*This bill would authorize the court to order a person convicted of a crime described above to enroll and participate in, and successfully complete, a qualified "24/7 Sobriety program," as defined, as a condition of probation, if the program is available and deemed appropriate, and the person committed the crime within 10 years of one or more separate crimes described above that resulted in a conviction. The bill also would authorize a court to order participation in a 24/7 Sobriety program as a condition of release on bond for a person who has been charged with a crime described above. The bill would permit a person whose driving privilege has been suspended or revoked for certain violations, and who subsequently applies to the department for a restricted driving privilege, to be permitted to participate in a 24/7 Sobriety program as a condition of obtaining the restricted driving privilege as an alternative to, or in conjunction with, participation in an ignition interlock device program. The bill would define a "24/7 Sobriety program," in part, as requiring a person in the program to abstain from alcohol and unauthorized controlled substances and be subject to frequent testing for alcohol and controlled substances, as specified. The bill would require a person participating in the program to pay the program costs, commensurate with the person's ability to pay, as specified.*

~~Existing law provides that all records of the Department of Motor Vehicles relating to the registration of vehicles, other information contained on an application for a driver's license, abstracts of convictions, and certain abstracts of accident reports are required to be open to public inspection during office hours, except when a specific provision of law prohibits the disclosure of records or information or provides for confidentiality.~~

~~This bill would provide that consent to the use of a person’s driver’s license number by the insurance agent or broker of an insurer, insurance licensee, employer, or prospective employer to obtain, transmit, or otherwise utilize the motor vehicle records of that person pursuant to the provision described above is presumed if the person provides his or her driver’s license number to an insurer, insurance licensee, employer, or prospective employer for the purpose of eligibility, underwriting, and rating of personal or commercial insurance coverage or eligibility for employment or continued employment involving the use of a motor vehicle. The bill would provide that the insurance agent or broker of the insurer, insurance licensee, employer, or prospective employer is authorized to transmit motor vehicle records for these purposes, as specified, and would specify that an insurance agent or broker who has lawfully transmitted a record as authorized under these provisions is not responsible for the subsequent handling of that record by any recipient who is authorized to receive the record under these provisions. The bill would also delete an obsolete cross-reference.~~

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

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

- 1     SECTION 1. *The Legislature finds and declares as follows:*
- 2     (a) *On December 4, 2015, Congress passed, and the President*
- 3 *signed into law, the Fixing America’s Surface Transportation*
- 4 *(FAST) Act (Public Law 114-94).*
- 5     (b) *The FAST Act provides long-term funding certainty for*
- 6 *surface transportation and requires the National Highway Traffic*
- 7 *Safety Administration (NHTSA) to award certain grants pursuant*
- 8 *to rulemaking.*
- 9     (c) *The FAST Act includes grant programs for states that meet*
- 10 *requirements associated with impaired driving interventions,*
- 11 *including 24/7 Sobriety programs. These programs typically*
- 12 *approach impaired driving deterrence by focusing on the most*
- 13 *high-risk offenders, requiring abstinence from alcohol or illegal*
- 14 *drugs, testing compliance multiple times per day, and swiftly*
- 15 *delivering defined consequences for noncompliance.*
- 16     (d) *The FAST Act permits the NHSTA to award 24/7 Sobriety*
- 17 *program grants to states that meet two separate requirements:*

1 (1) That a state enact and enforce a law that requires all  
2 individuals convicted of driving under the influence of alcohol or  
3 of driving while intoxicated to receive at least a 30-day restriction  
4 on driving privileges. California currently meets this requirement.

5 (2) That a state provide a 24/7 Sobriety program with statewide  
6 applicability. A “24/7 Sobriety program” is a state law or program  
7 that authorizes a state court or an agency with jurisdiction to  
8 require an individual who has committed a  
9 driving-under-the-influence offense to abstain from alcohol or  
10 controlled substances for a period of time and be subject to testing  
11 for alcohol or controlled substances at least twice per day at a  
12 testing location, or by continuous transdermal monitoring device,  
13 or by an alternative method approved by NHTSA. California does  
14 not yet meet this requirement.

15 (e) Additional federal grant moneys are available to states under  
16 programs, including, but not limited to, NHTSA’s Impaired Driving  
17 Countermeasure Program pursuant to Sections 402 and 405 of  
18 Title 23 of the United States Code.

19 (f) It is the intent of the Legislature in enacting this act to  
20 authorize a statewide 24/7 Sobriety program so that California is  
21 eligible for the new 24/7 FAST Act grant funding and additional  
22 funding available through NHTSA.

23 SEC. 2. Section 23582.5 is added to the Vehicle Code, to read:

24 23582.5. (a) The court may order a person convicted of a  
25 violation of Section 23152 or 23153 to enroll and participate in,  
26 and successfully complete, a qualified 24/7 Sobriety program, as  
27 described in subdivision (d), as a condition of probation, parole,  
28 sentence, or work permit if the program is available and deemed  
29 appropriate, and the person committed the current violation within  
30 10 years of one or more separate violations of Section 23152 or  
31 23153 that resulted in a conviction.

32 (b) The court may require a person who has been arrested for  
33 a violation of Section 23152 or 23153 to enroll and participate in,  
34 and successfully complete, a qualified 24/7 Sobriety program, as  
35 described in subdivision (d), as a condition of release on bond, if  
36 the program is available and deemed appropriate, and the person  
37 committed the current violation within 10 years of one or more  
38 separate violations of Section 23152 or 23153 that resulted in a  
39 conviction.

1 (c) (1) A person whose driving privilege has been suspended  
2 or revoked pursuant to Section 13352 or 13353 and who  
3 subsequently applies to the department for a restricted driving  
4 privilege, shall be permitted to enroll and participate in, and  
5 successfully complete, a 24/7 Sobriety program as a condition of  
6 obtaining the restricted driving privilege if the program is available  
7 and deemed appropriate, and the person committed the current  
8 violation within 10 years of one or more separate violations of  
9 Section 23152 or 23153 that resulted in a conviction. The restricted  
10 driving privilege granted under this subdivision may be conditioned  
11 on participation in the 24/7 Sobriety program as an alternative  
12 to, or in conjunction with, participation in an ignition interlock  
13 device program.

14 (2) Notwithstanding any other provision of this section, a person  
15 subject to this subdivision shall participate in the 24/7 Sobriety  
16 program for a minimum of one year.

17 (d) For purposes of this section, a “24/7 Sobriety program”  
18 requires a participant to abstain from alcohol or controlled  
19 substance use for a designated period of time and be subject to  
20 breath testing for alcohol or controlled substances at least twice  
21 per day at a testing location as the primary testing methodology,  
22 or by continuous transdermal monitoring device, or by an  
23 alternative method approved by NHTSA in the event of a hardship.  
24 Program violations shall be met with immediate but modest  
25 sanctions. The 24/7 Sobriety program methodology shall be  
26 evidence-based. “Evidence-based” means the program  
27 methodology meets at least two of the following criteria:

28 (1) Evaluation research shows that the program produces the  
29 expected positive results.

30 (2) The results can be attributed to the program itself, rather  
31 than to other extraneous factors or events.

32 (3) The evaluation is peer reviewed by experts in the field.

33 (4) The program is endorsed by a federal agency or respected  
34 research organization and included in its list of effective programs.

35 (e) A person ordered into a 24/7 Sobriety program may also be  
36 required to participate in any other driving-under-the-influence  
37 program required under California law, including, but not limited  
38 to, programs provided in Section 11836 of the Health and Safety  
39 Code.

1 (f) Testing locations and methods that provide the best ability  
 2 to sanction a violation as close in time as reasonably feasible to  
 3 the occurrence of the violation should be given preference.

4 (g) In order to enable all required defendants to participate,  
 5 each person shall pay the program costs commensurate with the  
 6 person’s ability to pay as determined pursuant to Section 11837.4  
 7 of the Health and Safety Code.

8 (h) The court shall not impose a program of more than 180 days  
 9 in length unless the defendant tests positive for alcohol or an  
 10 unauthorized controlled substance or fails to appear for a test.

11 (i) The Office of Traffic Safety shall include a description of the  
 12 provisions authorizing the 24/7 Sobriety program pursuant to this  
 13 section in its highway safety plan required to be submitted to the  
 14 NHTSA under subsection (k) of Section 402 of Title 23 of the United  
 15 States Code, including any application requirements necessary to  
 16 qualify for grants under Section 405 of Title 23 of the United States  
 17 Code.

18 (j) The department shall establish statewide uniform collection  
 19 and reporting of all of the following data:

- 20 (1) Participant demographic information.
- 21 (2) Participant case history information.
- 22 (3) Testing information, including testing duration, test results,  
 23 and testing attendance.
- 24 (4) Fees and fee payments.

25 ~~SECTION 1. Section 1808 of the Vehicle Code is amended to~~  
 26 ~~read:~~

27 ~~1808. (a) Except when a specific provision of law prohibits~~  
 28 ~~the disclosure of records or information or provides for~~  
 29 ~~confidentiality, all records of the department relating to the~~  
 30 ~~registration of vehicles, other information contained on an~~  
 31 ~~application for a driver’s license, abstracts of convictions, and~~  
 32 ~~abstracts of accident reports required to be sent to the department~~  
 33 ~~in Sacramento, except for abstracts of accidents when, in the~~  
 34 ~~opinion of a reporting officer, another individual was at fault, shall~~  
 35 ~~be open to public inspection during office hours. All abstracts of~~  
 36 ~~accident reports shall be available to law enforcement agencies~~  
 37 ~~and courts of competent jurisdiction.~~

38 ~~(b) The department shall make available or disclose abstracts~~  
 39 ~~of convictions and abstracts of accident reports required to be sent~~

1 to the department in Sacramento, as described in subdivision (a);  
2 if the date of the occurrence is not later than the following:  
3 (1) Ten years for a violation pursuant to Section 23140, 23152,  
4 or 23153.  
5 (2) Seven years for a violation designated as two points pursuant  
6 to Section 12810, except as provided in paragraph (1) of this  
7 subdivision.  
8 (3) Three years for accidents and all other violations.  
9 (e) The department shall make available or disclose suspensions  
10 and revocations of the driving privilege while the suspension or  
11 revocation is in effect and for three years following termination  
12 of the action or reinstatement of the privilege, except that driver's  
13 license suspension actions taken pursuant to Sections 13202.6 and  
14 13202.7, Section 17520 of the Family Code, or Section 256 of, or  
15 former Section 11350.6 of, the Welfare and Institutions Code shall  
16 be disclosed only during the actual time period in which the  
17 suspension is in effect.  
18 (d) The department shall not make available or disclose a  
19 suspension or revocation that has been judicially set aside or stayed.  
20 (e) The department shall not make available or disclose personal  
21 information about a person unless the disclosure is in compliance  
22 with the Driver's Privacy Protection Act of 1994 (18 U.S.C. See.  
23 2721 et seq.). However, a disclosure is subject to the prohibition  
24 in paragraph (2) of subdivision (a) of Section 12800.5.  
25 (f) The department shall make available or disclose to the courts  
26 and law enforcement agencies a conviction of Section 23103, as  
27 specified in Section 23103.5, or a conviction of Section 23140,  
28 23152, or 23153, or Section 655 of the Harbors and Navigation  
29 Code, or paragraph (1) of subdivision (e) of Section 192 of the  
30 Penal Code for a period of 10 years from the date of the offense  
31 for the purpose of imposing penalties mandated by this code, or  
32 by other applicable state law.  
33 (g) The department shall make available or disclose to the courts  
34 and law enforcement agencies a conviction of Section 191.5, or  
35 subdivision (a) of Section 192.5 of the Penal Code, punished as a  
36 felony, for the purpose of imposing penalties mandated by Section  
37 23550.5, or by other applicable state law.  
38 (h) (1) Consent to the use of a person's driver's license number  
39 by the insurance agent or broker of an insurer, insurance licensee,  
40 employer, or prospective employer to obtain, transmit, or otherwise

1 utilize the motor vehicle records of that person pursuant to this  
2 section shall be presumed if the person provides his or her driver's  
3 license number, or the driver's license number of any dependent,  
4 to an insurer, insurance licensee, employer, or prospective employer  
5 for the purpose of eligibility, underwriting, and rating of personal  
6 or commercial insurance coverage or eligibility for employment  
7 or continued employment involving the use of a motor vehicle.

8 (2) (A) The insurance agent or broker of the insurer, insurance  
9 licensee, employer, or prospective employer is authorized to  
10 transmit motor vehicle records for the purposes described in  
11 paragraph (1). An insurance agent or broker who has lawfully  
12 transmitted a record as authorized by this section is not responsible  
13 for the subsequent handling of that record by any recipient who is  
14 authorized to receive a record under this section.

15 (B) Prior to transmitting records pursuant to this paragraph to  
16 any insurer with whom the insurance broker or agent does not have  
17 a written agreement, or to a third party authorized by this paragraph  
18 to receive those records, the broker or agent shall obtain a written  
19 agreement from the insurer or other third party that the insurer or  
20 other third party shall handle those records in accordance with  
21 state and federal laws governing fair credit reporting and privacy.