

AMENDED IN ASSEMBLY MARCH 17, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1975

Introduced by Assembly Member Waldron

February 16, 2016

An act to amend Section 11837 of the Health and Safety Code, relating to driving under the influence.

LEGISLATIVE COUNSEL'S DIGEST

AB 1975, as amended, Waldron. Driving under the influence: alcohol abuse treatment.

Existing law makes it an offense to drive a vehicle while under the influence of alcohol. *Existing law requires the court to impose as a condition of probation for a conviction for a first violation of driving under the influence, in a county where the board of supervisors has approved, and the State Department of Health Care Services has licensed, a driving-under-the-influence program, that the driver successfully complete the program in the driver's county of residence or employment, as designated by the court. Existing law provides that enrollment and participation in, and completion of, an approved program shall be subsequent to the date of the current violation.*

This bill would require a court to impose an alcohol dependence assessment, as specified, as a condition of probation for a person in an 18-month or 30-month driving-under-the-influence program, or for a first offender who had a specified blood alcohol level. The bill would require the entity administering the assessment to advise the person, among other things, that there are medications that can address alcohol dependence, and that the person should consult his or her physician regarding the results of the assessment. The bill would state findings

and declarations of the Legislature regarding driving under the influence.

~~This bill would express the intent of the Legislature to enact legislation that would require American Society of Addiction Medicine assessments for certain individuals who are repeat offenders of driving under the influence of alcohol or who were driving under the influence with excessive blood alcohol levels, to determine if the individual needs treatment, and to refer the individual for additional services, as appropriate, including, but not limited to, physician services, counseling, treatment facility services, and medication-assisted treatment for alcohol abuse.~~

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. *The Legislature finds and declares the following:*
- 2 (a) *Great strides have been made over the last three decades*
- 3 *in raising awareness about the dangers of driving under the*
- 4 *influence (DUI). Nationwide educational campaigns, extensive*
- 5 *policy and statutory changes, and required participation in DUI*
- 6 *education and counseling programs for offenders have*
- 7 *substantially reduced the alcohol-related traffic fatality rate.*
- 8 *However, the latest California DUI report issued by the*
- 9 *Department of Motor Vehicles identifies a troubling trend in that*
- 10 *alcohol-involved crash fatalities increased by 1.6 percent in 2011*
- 11 *and 7.3 percent in 2012. More needs to be done to address, in*
- 12 *particular, the incidence of repeat DUI violators.*
- 13 (b) *To improve public safety and improve health outcomes,*
- 14 *additional screening and assessment of both repeat DUI offenders*
- 15 *and first-time offenders with extremely high blood alcohol content*
- 16 *is necessary to determine if alcohol dependence issues exist. The*
- 17 *use of the American Society for Addiction Medicine (ASAM)*
- 18 *criteria, a widely used and nationally recognized set of guidelines*
- 19 *to assess, place, and discharge persons with addiction and*
- 20 *co-occurring conditions, would expand the use of data and science*
- 21 *to address alcohol abuse, promote referrals to medically necessary*
- 22 *treatment, when appropriate, and reduce fatalities and serious*
- 23 *injuries on public roads.*

1 (c) In 2007, the National Highway Traffic Safety Administration
2 (NHTSA), at the request of the California Office of Traffic Safety,
3 conducted an assessment of the state's alcohol- and
4 drug-impaired-driving countermeasures program. The NHTSA's
5 work resulted in identification of key issues of concern around
6 impaired driving and produced dozens of recommendations to
7 improve the state's DUI countermeasures program. Among the
8 recommendations offered in the 2007 Impaired Driving Technical
9 Assessment of the State of California was a recommendation to
10 enact legislation to require all defendants convicted of driving
11 under the influence or reckless driving with alcohol or drugs be
12 screened to determine if a defendant requires treatment for
13 addiction and chemical dependency.

14 (d) California and the Centers for Medicare and Medicaid
15 Services already require the use of the ASAM in other treatment
16 settings. Under the federally approved Drug Medi-Cal Organized
17 Delivery System waiver, counties will be required to use the ASAM
18 tool with the Drug Medi-Cal population.

19 SEC. 2. Section 11837 of the Health and Safety Code is
20 amended to read:

21 11837. (a) Pursuant to the provisions of law relating to
22 suspension of a person's privilege to operate a motor vehicle upon
23 conviction for driving while under the influence of any alcoholic
24 beverage or drug, or under the combined influence of any alcoholic
25 beverage and any drug, as set forth in paragraph (3) of subdivision
26 (a) of Section 13352 of the Vehicle Code, the Department of Motor
27 Vehicles shall restrict the driving privilege pursuant to Section
28 13352.5 of the Vehicle Code, if the person convicted of that offense
29 participates for at least 18 months in a driving-under-the-influence
30 program that is licensed pursuant to this chapter.

31 (b) In determining whether to refer a person, who is ordered to
32 participate in a program pursuant to Section 668 of the Harbors
33 and Navigation Code, in a licensed alcohol and other drug
34 education and counseling services program pursuant to Section
35 23538 of the Vehicle Code, or, pursuant to Section 23542, 23548,
36 23552, 23556, 23562, or 23568 of the Vehicle Code, in a licensed
37 18-month or 30-month program, the court may consider any
38 relevant information about the person made available pursuant to
39 a presentence investigation, that is permitted but not required under
40 Section 23655 of the Vehicle Code, or other screening procedure.

1 That information shall not be furnished, however, by any person
2 who also provides services in a privately operated, licensed
3 program or who has any direct interest in a privately operated,
4 licensed program. In addition, the court shall obtain from the
5 Department of Motor Vehicles a copy of the person's driving
6 record to determine whether the person is eligible to participate in
7 a licensed 18-month or 30-month program pursuant to this chapter.
8 When preparing a presentence report for the court, the probation
9 department may consider the suitability of placing the defendant
10 in a treatment program that includes the administration of
11 nonscheduled nonaddicting medications to ameliorate an alcohol
12 or controlled substance problem. If the probation department
13 recommends that this type of program is a suitable option for the
14 defendant, the defendant who would like the court to consider this
15 option shall obtain from his or her physician a prescription for the
16 medication, and a finding that the treatment is medically suitable
17 for the defendant, prior to consideration of this alternative by the
18 court.

19 (c) (1) The court shall, as a condition of probation pursuant to
20 Section 23538 or 23556 of the Vehicle Code, refer a first offender
21 whose concentration of alcohol in his or her blood was less than
22 0.20 percent, by weight, to participate for at least three months or
23 longer, as ordered by the court, in a licensed program that consists
24 of at least 30 hours of program activities, including those education,
25 group counseling, and individual interview sessions described in
26 this chapter.

27 (2) Notwithstanding any other ~~provision of~~ law, in granting
28 probation to a first offender described in this subdivision whose
29 concentration of alcohol in the person's blood was 0.20 percent
30 or more, by weight, or the person refused to take a chemical test,
31 the court shall order the person to participate, for at least nine
32 months or longer, as ordered by the court, in a licensed program
33 that consists of at least 60 hours of program activities, including
34 those education, group counseling, and individual interview
35 sessions described in this chapter.

36 (d) (1) The State Department of Health Care Services may
37 specify in regulations the activities required to be provided in the
38 treatment of participants receiving nine months of licensed program
39 services under Section 23538 or 23556 of the Vehicle Code.

1 (2) Any program licensed pursuant to this chapter may provide
2 treatment services to participants receiving at least six months of
3 licensed program services under Section 23538 or 23556 of the
4 Vehicle Code.

5 (e) The court may, subject to Section 11837.2, and as a condition
6 of probation, refer a person to a licensed program, even though
7 the person's privilege to operate a motor vehicle is restricted,
8 suspended, or revoked. An 18-month program described in Section
9 23542 or 23562 of the Vehicle Code or a 30-month program
10 described in Section 23548, 23552, or 23568 of the Vehicle Code
11 may include treatment of family members and significant other
12 persons related to the convicted person with the consent of those
13 family members and others as described in this chapter, if there is
14 no increase in the costs of the program to the convicted person.

15 (f) The clerk of the court shall indicate the duration of the
16 program in which the judge has ordered the person to participate
17 in the abstract of the record of the court that is forwarded to the
18 department.

19 (g) *The court shall order, as a condition of probation for the*
20 *following persons, the administration of the American Society for*
21 *Addiction Medicine (ASAM) criteria to assess alcohol dependence*
22 *and to inform the development of an individual's comprehensive*
23 *treatment plan:*

24 (1) *A first-time offender whose concentration of alcohol in his*
25 *or her blood was 0.16 percent or greater.*

26 (2) *A person referred to an 18-month program described in*
27 *Section 23542 or 23562 of the Vehicle Code.*

28 (3) *A person referred to a 30-month program described in*
29 *Section 23548, 23552, or 23568 of the Vehicle Code.*

30 (h) *The entity administering the assessment required by*
31 *subdivision (g) shall advise the person subject to the assessment*
32 *of all of the following:*

33 (1) *That the person should consult with his or her physician to*
34 *discuss the results of the assessment, including any medically*
35 *necessary services.*

36 (2) *If the person's physician determines that substance use*
37 *disorder treatment is medically necessary, that the person should*
38 *be referred to a licensed residential or certified outpatient*
39 *treatment program.*

1 (3) *That there are medications approved by the Federal Drug*
2 *Administration that can address alcohol dependence.*

3 (i) *The goal of the assessment required by subdivision (g) is to*
4 *assist persons participating in the program to recognize their*
5 *chemical dependency and to assist them in their recovery.*

6 ~~SECTION 1. It is the intent of the Legislature to enact~~
7 ~~legislation that would require American Society of Addiction~~
8 ~~Medicine assessments for certain individuals who are repeat~~
9 ~~offenders of driving under the influence of alcohol or who were~~
10 ~~driving under the influence with excessive blood alcohol levels to~~
11 ~~determine if the individual needs treatment and to refer the~~
12 ~~individual for additional services, as appropriate, including, but~~
13 ~~not limited to, physician services, counseling, treatment facility~~
14 ~~services, and medication-assisted treatment for alcohol abuse.~~