

AMENDED IN ASSEMBLY APRIL 5, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2227

Introduced by Assembly Member Waldron

February 18, 2016

An act to amend Sections ~~14601.4, 14607.6, 14607.8, 14601.4~~ and 23573 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2227, as amended, Waldron. Vehicles: license suspension and revocation: punishment.

Under existing law, it is unlawful for a person, while driving a vehicle with a license suspended or revoked for conviction of a violation of driving under the influence of alcohol or drugs to do an act forbidden by law or neglect a duty imposed by law in the driving of the vehicle, which act or neglect proximately causes bodily injury to a person other than the driver. Conviction for a first violation of this provision is punishable by imprisonment in county jail for not less than 10 days or more than 6 months and by a fine of not less than \$300 or more than \$1,000, or if the offense occurred within 5 years of a prior offense resulting in conviction of, among other things, driving under the influence or reckless driving, the offense is punishable by imprisonment in county jail for not less than 30 days or more than one year and by a fine of not less than \$500 or more than \$2,000, in each case except if the person has been designated a habitual traffic offender, as specified.

This bill would additionally make it unlawful for a person, while driving a vehicle with a license that has been suspended or revoked for reckless-driving, *driving resulting in injury to a person other than the driver, as specified*, to do an act forbidden by law or neglect a duty

imposed by law in the driving of the vehicle, which act or neglect proximately causes bodily injury to a person other than the driver. ~~The bill would make a violation of this provision or the provision described above pertaining to driving with a license suspended or revoked for driving under the influence of alcohol or drugs punishable as a misdemeanor or as a felony. The bill would require a person convicted under these provisions to serve a specified minimum term of imprisonment in the county jail. The bill would make additional conforming changes.~~ By expanding the punishment for an existing crime and by increasing duties on local prosecutors, *crime*, this bill would impose a state-mandated local program.

~~Existing law subjects a vehicle to forfeiture as a nuisance if it is driven on a highway in the state by a driver whose license is suspended or revoked, or by an unlicensed driver, who is a registered owner of the vehicle at the time of impoundment who has a previous misdemeanor conviction for, among other violations, driving under the influence of alcohol or drugs or reckless driving.~~

~~This bill would subject those vehicles to forfeiture if the driver has been convicted for a violation of any of those provisions, regardless of whether the conviction was a misdemeanor or felony. This bill would make conforming changes.~~

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 14601.4 of the Vehicle Code is amended
- 2 to read:
- 3 14601.4. (a) (1) It is unlawful for a person, while driving a
- 4 vehicle with a license suspended or revoked pursuant to Section
- 5 14601.2 to do an act forbidden by law or neglect a duty imposed
- 6 by law in the driving of the vehicle, which act or neglect
- 7 proximately causes bodily injury to a person other than the driver.
- 8 (2) It is unlawful for a person, while driving a vehicle with a
- 9 license suspended or revoked pursuant to Section 14601.4 pursuant

1 *to a conviction for a violation of Section 23104 or 23105 to do an*
2 *act forbidden by law or neglect a duty imposed by law in the*
3 *driving of the vehicle, which act or neglect proximately causes*
4 *bodily injury to a person other than the driver.*

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

8 ~~(b) A violation of this section is punishable as a misdemeanor~~
9 ~~or as a felony pursuant to subdivision (h) of Section 1170 of the~~
10 ~~Penal Code.~~

11 (e)
12 (b) A person convicted of a misdemeanor under this section
13 whose license was suspended or revoked pursuant to Section
14 14601.2 shall be imprisoned in the county jail and shall not be
15 released upon work release, community service, or other release
16 program before the minimum period of imprisonment, prescribed
17 in Section 14601.2, is served. If a person is convicted of that
18 offense and is granted probation, the court shall require that the
19 person convicted serve at least the minimum time of imprisonment,
20 as specified in those sections; that section, as a term or condition
21 of probation.

22 (c) *A person convicted under this section whose license was*
23 *suspended pursuant to a conviction for a violation of Section 23104*
24 *or 23105 shall be imprisoned in the county jail and shall not be*
25 *released upon work release, community service, or other release*
26 *program before the minimum period of imprisonment prescribed*
27 *in Section 14601 is served. If a person is convicted under this*
28 *section and is granted probation, the court shall require the person*
29 *to serve at least the minimum time of imprisonment specified in*
30 *Section 14601 as a term or condition of probation.*

31 (d) When the prosecution agrees to a plea of guilty or nolo
32 contendere to a charge of a violation of this section in satisfaction
33 of, or as a substitute for, an original charge of a violation of Section
34 14601.2, and the court accepts that plea, except, in the interest of
35 justice, when the court finds it should be inappropriate, the court
36 shall, pursuant to Section 23575, require the person convicted, in
37 addition to other requirements, to install a certified ignition
38 interlock device on a vehicle that the person owns or operates for
39 a period not to exceed three years.

(e) This section also applies to the operation of an off-highway motor vehicle on those lands that the Chappie-Z'berg Off-Highway Motor Vehicle Law of 1971 (Division 16.5 (commencing with Section 38000)) applies as to off-highway motor vehicles, as described in Section 38001.

(f) Upon receipt of the abstract of a conviction for a person whose license was suspended or revoked pursuant to Section 14601.2 and when the court requires the person to install a certified ignition interlock device pursuant to subdivision (d), the department shall not reinstate the privilege to operate a motor vehicle until the department receives proof of either the "Verification of Installation" form as described in paragraph (2) of subdivision (h) of Section 13386 or the Judicial Council Form I.D. 100.

(g) If Section 23573 is applicable, then subdivisions (d) and (f) are not applicable.

SEC. 2. ~~Section 14607.6 of the Vehicle Code is amended to read:~~

~~14607.6. (a) Notwithstanding any other provision of law, and except as provided in this section, a motor vehicle is subject to forfeiture as a nuisance if it is driven on a highway in this state by a driver with a suspended or revoked license, or by an unlicensed driver, who is a registered owner of the vehicle at the time of impoundment and has a previous conviction for a violation of subdivision (a) of Section 12500 or Section 14601, 14601.1, 14601.2, 14601.3, 14601.4, or 14601.5.~~

~~(b) A peace officer shall not stop a vehicle for the sole reason of determining whether the driver is properly licensed.~~

~~(c) (1) If a driver is unable to produce a valid driver's license on the demand of a peace officer enforcing the provisions of this code, as required by subdivision (b) of Section 12951, the vehicle shall be impounded regardless of ownership, unless the peace officer is reasonably able, by other means, to verify that the driver is properly licensed. Prior to impounding a vehicle, a peace officer shall attempt to verify the license status of a driver who claims to be properly licensed but is unable to produce the license on demand of the peace officer.~~

~~(2) A peace officer shall not impound a vehicle pursuant to this subdivision if the license of the driver expired within the preceding 30 days and the driver would otherwise have been properly licensed.~~

1 ~~(3) A peace officer may exercise discretion in a situation where~~
2 ~~the driver without a valid license is an employee driving a vehicle~~
3 ~~registered to the employer in the course of employment. A peace~~
4 ~~officer may also exercise discretion in a situation where the driver~~
5 ~~without a valid license is the employee of a bona fide business~~
6 ~~establishment or is a person otherwise controlled by that~~
7 ~~establishment and it reasonably appears that an owner of the~~
8 ~~vehicle, or an agent of the owner, relinquished possession of the~~
9 ~~vehicle to the business establishment solely for servicing or parking~~
10 ~~of the vehicle or other reasonably similar situations, and when the~~
11 ~~vehicle was not to be driven except as directly necessary to~~
12 ~~accomplish that business purpose. In this event, if the vehicle can~~
13 ~~be returned to or be retrieved by the business establishment or~~
14 ~~registered owner, the peace officer may release and not impound~~
15 ~~the vehicle.~~

16 ~~(4) A registered or legal owner of record at the time of~~
17 ~~impoundment may request a hearing to determine the validity of~~
18 ~~the impoundment pursuant to subdivision (n).~~

19 ~~(5) If the driver of a vehicle impounded pursuant to this~~
20 ~~subdivision was not a registered owner of the vehicle at the time~~
21 ~~of impoundment, or if the driver of the vehicle was a registered~~
22 ~~owner of the vehicle at the time of impoundment but the driver~~
23 ~~does not have a previous conviction for a violation of subdivision~~
24 ~~(a) of Section 12500 or Section 14601, 14601.1, 14601.2, 14601.3,~~
25 ~~14601.4, or 14601.5, the vehicle shall be released pursuant to this~~
26 ~~code and is not subject to forfeiture.~~

27 ~~(d) (1) This subdivision applies only if the driver of the vehicle~~
28 ~~is a registered owner of the vehicle at the time of impoundment.~~
29 ~~Except as provided in paragraph (5) of subdivision (c), if the driver~~
30 ~~of a vehicle impounded pursuant to subdivision (c) was a registered~~
31 ~~owner of the vehicle at the time of impoundment, the impounding~~
32 ~~agency shall authorize release of the vehicle if, within three days~~
33 ~~of impoundment, the driver of the vehicle at the time of~~
34 ~~impoundment presents his or her valid driver's license, including~~
35 ~~a valid temporary California driver's license or permit, to the~~
36 ~~impounding agency. The vehicle shall then be released to a~~
37 ~~registered owner of record at the time of impoundment, or an agent~~
38 ~~of that owner authorized in writing, upon payment of towing and~~
39 ~~storage charges related to the impoundment, and any administrative~~
40 ~~charges authorized by Section 22850.5, providing that the person~~

1 claiming the vehicle is properly licensed and the vehicle is properly
2 registered. A vehicle impounded pursuant to the circumstances
3 described in paragraph (3) of subdivision (c) shall be released to
4 a registered owner whether or not the driver of the vehicle at the
5 time of impoundment presents a valid driver's license.

6 (2) ~~If there is a community property interest in the vehicle~~
7 ~~impounded pursuant to subdivision (c), owned at the time of~~
8 ~~impoundment by a person other than the driver, and the vehicle is~~
9 ~~the only vehicle available to the driver's immediate family that~~
10 ~~may be operated with a class C driver's license, the vehicle shall~~
11 ~~be released to a registered owner or to the community property~~
12 ~~interest owner upon compliance with all of the following~~
13 ~~requirements:~~

14 (A) ~~The registered owner or the community property interest~~
15 ~~owner requests release of the vehicle and the owner of the~~
16 ~~community property interest submits proof of that interest.~~

17 (B) ~~The registered owner or the community property interest~~
18 ~~owner submits proof that he or she, or an authorized driver, is~~
19 ~~properly licensed and that the impounded vehicle is properly~~
20 ~~registered pursuant to this code.~~

21 (C) ~~All towing and storage charges related to the impoundment~~
22 ~~and any administrative charges authorized pursuant to Section~~
23 ~~22850.5 are paid.~~

24 (D) ~~The registered owner or the community property interest~~
25 ~~owner signs a stipulated vehicle release agreement, as described~~
26 ~~in paragraph (3), in consideration for the nonforfeiture of the~~
27 ~~vehicle. This requirement applies only if the driver requests release~~
28 ~~of the vehicle.~~

29 (3) ~~A stipulated vehicle release agreement shall provide for the~~
30 ~~consent of the signator to the automatic future forfeiture and~~
31 ~~transfer of title to the state of any vehicle registered to that person,~~
32 ~~if the vehicle is driven by a driver with a suspended or revoked~~
33 ~~license, or by an unlicensed driver. The agreement shall be in effect~~
34 ~~for only as long as it is noted on a driving record maintained by~~
35 ~~the department pursuant to Section 1806.1.~~

36 (4) ~~The stipulated vehicle release agreement described in~~
37 ~~paragraph (3) shall be reported by the impounding agency to the~~
38 ~~department not later than 10 days after the day the agreement is~~
39 ~~signed.~~

1 ~~(5) No vehicle shall be released pursuant to paragraph (2) if the~~
2 ~~driving record of a registered owner indicates that a prior stipulated~~
3 ~~vehicle release agreement was signed by that person.~~

4 ~~(e) (1) The impounding agency, in the case of a vehicle that~~
5 ~~has not been redeemed pursuant to subdivision (d), or that has not~~
6 ~~been otherwise released, shall promptly ascertain from the~~
7 ~~department the names and addresses of all legal and registered~~
8 ~~owners of the vehicle.~~

9 ~~(2) The impounding agency, within two days of impoundment,~~
10 ~~shall send a notice by certified mail, return receipt requested, to~~
11 ~~all legal and registered owners of the vehicle, at the addresses~~
12 ~~obtained from the department, informing them that the vehicle is~~
13 ~~subject to forfeiture and will be sold or otherwise disposed of~~
14 ~~pursuant to this section. The notice shall also include instructions~~
15 ~~for filing a claim with the district attorney, and the time limits for~~
16 ~~filing a claim. The notice shall also inform any legal owner of its~~
17 ~~right to conduct the sale pursuant to subdivision (g). If a registered~~
18 ~~owner was personally served at the time of impoundment with a~~
19 ~~notice containing all the information required to be provided by~~
20 ~~this paragraph, no further notice is required to be sent to a~~
21 ~~registered owner. However, a notice shall still be sent to the legal~~
22 ~~owners of the vehicle, if any. If notice was not sent to the legal~~
23 ~~owner within two working days, the impounding agency shall not~~
24 ~~charge the legal owner for more than 15 days' impoundment when~~
25 ~~the legal owner redeems the impounded vehicle.~~

26 ~~(3) No processing charges shall be imposed on a legal owner~~
27 ~~who redeems an impounded vehicle within 15 days of the~~
28 ~~impoundment of that vehicle. If no claims are filed and served~~
29 ~~within 15 days after the mailing of the notice in paragraph (2), or~~
30 ~~if no claims are filed and served within five days of personal~~
31 ~~service of the notice specified in paragraph (2), when no other~~
32 ~~mailed notice is required pursuant to paragraph (2), the district~~
33 ~~attorney shall prepare a written declaration of forfeiture of the~~
34 ~~vehicle to the state. A written declaration of forfeiture signed by~~
35 ~~the district attorney under this subdivision shall be deemed to~~
36 ~~provide good and sufficient title to the forfeited vehicle. A copy~~
37 ~~of the declaration shall be provided on request to any person~~
38 ~~informed of the pending forfeiture pursuant to paragraph (2). A~~
39 ~~claim that is filed and is later withdrawn by the claimant shall be~~
40 ~~deemed not to have been filed.~~

~~(4) If a claim is timely filed and served, then the district attorney shall file a petition of forfeiture with the appropriate juvenile or superior court within 10 days of the receipt of the claim. The district attorney shall establish an expedited hearing date in accordance with instructions from the court, and the court shall hear the matter without delay. The court filing fee of one hundred dollars (\$100) shall be paid by the claimant, but shall be reimbursed by the impounding agency if the claimant prevails. To the extent practicable, the civil and criminal cases shall be heard at the same time in an expedited, consolidated proceeding. A proceeding in the civil case is a limited civil case.~~

~~(5) The burden of proof in the civil case shall be on the prosecuting agency, by a preponderance of the evidence. All questions that may arise shall be decided and all other proceedings shall be conducted as in an ordinary civil action. A judgment of forfeiture does not require as a condition precedent the conviction of a defendant of an offense which made the vehicle subject to forfeiture. The filing of a claim within the time limits specified in paragraph (3) is considered a jurisdictional prerequisite for the availing of the action authorized by that paragraph.~~

~~(6) All right, title, and interest in the vehicle shall vest in the state upon commission of the act giving rise to the forfeiture.~~

~~(7) The filing fee in paragraph (4) shall be distributed as follows:~~

~~(A) To the county law library fund as provided in Section 6320 of the Business and Professions Code, the amount specified in Sections 6321 and 6322.1 of the Business and Professions Code.~~

~~(B) To the Trial Court Trust Fund, the remainder of the fee.~~

~~(f) Any vehicle impounded that is not redeemed pursuant to subdivision (d) and is subsequently forfeited pursuant to this section shall be sold once an order of forfeiture is issued by the district attorney of the county of the impounding agency or a court, as the case may be, pursuant to subdivision (e).~~

~~(g) Any legal owner who is a motor vehicle dealer, bank, credit union, acceptance corporation, or other licensed financial institution legally operating in this state, or the agent of that legal owner, may take possession and conduct the sale of the forfeited vehicle if the legal owner or agent notifies the agency impounding the vehicle of its intent to conduct the sale within 15 days of the mailing of the notice pursuant to subdivision (e). Sale of the vehicle after forfeiture pursuant to this subdivision may be conducted at the~~

1 time, in the manner, and on the notice usually given for the sale
2 of repossessed or surrendered vehicles. The proceeds of any sale
3 conducted by or on behalf of the legal owner shall be disposed of
4 as provided in subdivision (i). A notice pursuant to this subdivision
5 may be presented in person, by certified mail, by facsimile
6 transmission, or by electronic mail.

7 (h) If the legal owner or agent of the owner does not notify the
8 agency impounding the vehicle of its intent to conduct the sale as
9 provided in subdivision (g), the agency shall offer the forfeited
10 vehicle for sale at public auction within 60 days of receiving title
11 to the vehicle. Low value vehicles shall be disposed of pursuant
12 to subdivision (k).

13 (i) The proceeds of a sale of a forfeited vehicle shall be disposed
14 of in the following priority:

15 (1) To satisfy the towing and storage costs following
16 impoundment, the costs of providing notice pursuant to subdivision
17 (e), the costs of sale, and the unfunded costs of judicial
18 proceedings, if any.

19 (2) To the legal owner in an amount to satisfy the indebtedness
20 owed to the legal owner remaining as of the date of sale, including
21 accrued interest or finance charges and delinquency charges,
22 providing that the principal indebtedness was incurred prior to the
23 date of impoundment.

24 (3) To the holder of any subordinate lien or encumbrance on
25 the vehicle, other than a registered or legal owner, to satisfy any
26 indebtedness so secured if written notification of demand is
27 received before distribution of the proceeds is completed. The
28 holder of a subordinate lien or encumbrance, if requested, shall
29 furnish reasonable proof of its interest and, unless it does so upon
30 request, is not entitled to distribution pursuant to this paragraph.

31 (4) To any other person, other than a registered or legal owner,
32 who can reasonably establish an interest in the vehicle, including
33 a community property interest, to the extent of his or her provable
34 interest, if written notification is received before distribution of
35 the proceeds is completed.

36 (5) Of the remaining proceeds, funds shall be made available
37 to pay any local agency and court costs, that are reasonably related
38 to the implementation of this section, that remain unsatisfied.

39 (6) Of the remaining proceeds, half shall be transferred to the
40 Controller for deposit in the Vehicle Inspection and Repair Fund

1 for the high-polluter repair assistance and removal program created
2 by Article 9 (commencing with Section 44090) of Chapter 5 of
3 Part 5 of Division 26 of the Health and Safety Code, and half shall
4 be transferred to the general fund of the city or county of the
5 impounding agency, or the city or county where the impoundment
6 occurred. A portion of the local funds may be used to establish a
7 reward fund for persons coming forward with information leading
8 to the arrest and conviction of hit-and-run drivers and to publicize
9 the availability of the reward fund.

10 (j) The person conducting the sale shall disburse the proceeds
11 of the sale as provided in subdivision (i) and shall provide a written
12 accounting regarding the disposition to the impounding agency
13 and, on request, to any person entitled to or claiming a share of
14 the proceeds, within 15 days after the sale is conducted.

15 (k) If the vehicle to be sold pursuant to this section is not of the
16 type that can readily be sold to the public generally, the vehicle
17 shall be conveyed to a licensed dismantler or donated to an
18 eleemosynary institution. License plates shall be removed from
19 any vehicle conveyed to a dismantler pursuant to this subdivision.

20 (l) No vehicle shall be sold pursuant to this section if the
21 impounding agency determines the vehicle to have been stolen.
22 In this event, the vehicle may be claimed by the registered owner
23 at any time after impoundment, providing the vehicle registration
24 is current and the registered owner has no outstanding traffic
25 violations or parking penalties on his or her driving record or on
26 the registration record of any vehicle registered to the person. If
27 the identity of the legal and registered owners of the vehicle cannot
28 be reasonably ascertained, the vehicle may be sold.

29 (m) Any owner of a vehicle who suffers any loss due to the
30 impoundment or forfeiture of any vehicle pursuant to this section
31 may recover the amount of the loss from the unlicensed, suspended,
32 or revoked driver. If possession of a vehicle has been tendered to
33 a business establishment in good faith, and an unlicensed driver
34 employed or otherwise directed by the business establishment is
35 the cause of the impoundment of the vehicle, a registered owner
36 of the impounded vehicle may recover damages for the loss of use
37 of the vehicle from the business establishment.

38 (n) (1) The impounding agency, if requested to do so not later
39 than 10 days after the date the vehicle was impounded, shall
40 provide the opportunity for a poststorage hearing to determine the

1 validity of the storage to the persons who were the registered and
2 legal owners of the vehicle at the time of impoundment, except
3 that the hearing shall be requested within three days after the date
4 the vehicle was impounded if personal service was provided to a
5 registered owner pursuant to paragraph (2) of subdivision (e) and
6 no mailed notice is required.

7 (2) The poststorage hearing shall be conducted not later than
8 two days after the date it was requested. The impounding agency
9 may authorize its own officer or employee to conduct the hearing
10 if the hearing officer is not the same person who directed the
11 storage of the vehicle. Failure of either the registered or legal owner
12 to request a hearing as provided in paragraph (1) or to attend a
13 scheduled hearing shall satisfy the poststorage hearing requirement.

14 (3) The agency employing the person who directed the storage
15 is responsible for the costs incurred for towing and storage if it is
16 determined that the driver at the time of impoundment had a valid
17 driver's license.

18 (e) As used in this section, "days" means workdays not including
19 weekends and holidays.

20 (p) Charges for towing and storage for any vehicle impounded
21 pursuant to this section shall not exceed the normal towing and
22 storage rates for other vehicle towing and storage conducted by
23 the impounding agency in the normal course of business.

24 (q) The Judicial Council and the Department of Justice may
25 prescribe standard forms and procedures for implementation of
26 this section to be used by all jurisdictions throughout the state.

27 (r) The impounding agency may act as the agent of the state in
28 carrying out this section.

29 (s) No vehicle shall be impounded pursuant to this section if
30 the driver has a valid license but the license is for a class of vehicle
31 other than the vehicle operated by the driver.

32 (t) This section does not apply to vehicles subject to Sections
33 14608 and 14609, if there has been compliance with the procedures
34 in those sections.

35 (u) As used in this section, "district attorney" includes a city
36 attorney charged with the duty of prosecuting misdemeanor
37 offenses.

38 (v) The agent of a legal owner acting pursuant to subdivision
39 (g) shall be licensed, or exempt from licensure, pursuant to Chapter

1 ~~11 (commencing with Section 7500) of Division 3 of the Business~~
2 ~~and Professions Code.~~

3 ~~SEC. 3. Section 14607.8 of the Vehicle Code is amended to~~
4 ~~read:~~

5 ~~14607.8. Upon a first conviction of a violation of subdivision~~
6 ~~(a) of Section 12500 or Section 14601, 14601.1, 14601.2, 14601.3,~~
7 ~~14601.4, or 14601.5, the court shall inform the defendant that,~~
8 ~~pursuant to Section 14607.6, a motor vehicle is subject to forfeiture~~
9 ~~as a nuisance if it is driven on a highway in this state by a driver~~
10 ~~with a suspended or revoked license, or by an unlicensed driver,~~
11 ~~who is a registered owner of the vehicle and has a previous~~
12 ~~conviction for a violation of subdivision (a) of Section 12500 or~~
13 ~~Section 14601, 14601.1, 14601.2, or 14601.3, paragraph (2) of~~
14 ~~subdivision (a) of Section 14601.4, or Section 14601.5.~~

15 ~~SEC. 4.~~

16 ~~SEC. 2. Section 23573 of the Vehicle Code is amended to read:~~

17 ~~23573. (a) The Department of Motor Vehicles, upon receipt~~
18 ~~of the court's abstract of conviction for a violation listed in~~
19 ~~subdivision (j), shall inform the convicted person of the~~
20 ~~requirements of this section and the term for which the person is~~
21 ~~required to have a certified ignition interlock device installed. The~~
22 ~~records of the department shall reflect the mandatory use of the~~
23 ~~device for the term required and the time when the device is~~
24 ~~required to be installed pursuant to this code.~~

25 ~~(b) The department shall advise the person that installation of~~
26 ~~an ignition interlock device on a vehicle does not allow the person~~
27 ~~to drive without a valid driver's license.~~

28 ~~(c) A person who is notified by the department pursuant to~~
29 ~~subdivision (a) shall, within 30 days of notification, complete all~~
30 ~~of the following:~~

31 ~~(1) Arrange for each vehicle owned or operated by the person~~
32 ~~to be fitted with an ignition interlock device by a certified ignition~~
33 ~~interlock device provider under Section 13386.~~

34 ~~(2) Notify the department and provide to the department proof~~
35 ~~of installation by submitting the "Verification of Installation" form~~
36 ~~described in paragraph (2) of subdivision (g) of Section 13386.~~

37 ~~(3) Pay to the department a fee sufficient to cover the costs of~~
38 ~~administration of this section, including startup costs, as determined~~
39 ~~by the department.~~

1 (d) The department shall place a restriction on the driver's
2 license record of the convicted person that states the driver is
3 restricted to driving only vehicles equipped with a certified ignition
4 interlock device.

5 (e) (1) A person who is notified by the department pursuant to
6 subdivision (a) shall arrange for each vehicle with an ignition
7 interlock device to be serviced by the installer at least once every
8 60 days in order for the installer to recalibrate and monitor the
9 operation of the device.

10 (2) The installer shall notify the department if the device is
11 removed or indicates that the person has attempted to remove,
12 bypass, or tamper with the device, or if the person fails three or
13 more times to comply with any requirement for the maintenance
14 or calibration of the ignition interlock device.

15 (f) The department shall monitor the installation and
16 maintenance of the ignition interlock device installed pursuant to
17 subdivision (a).

18 (g) (1) A person who is notified by the department, pursuant
19 to subdivision (a), is exempt from the requirements of subdivision
20 (c) if all of the following circumstances occur:

21 (A) Within 30 days of the notification, the person certifies to
22 the department all of the following:

23 (i) The person does not own a vehicle.

24 (ii) The person does not have access to a vehicle at his or her
25 residence.

26 (iii) The person no longer has access to the vehicle being driven
27 by the person when he or she was arrested for a violation that
28 subsequently resulted in a conviction for a violation listed in
29 subdivision (j).

30 (iv) The person acknowledges that he or she is only allowed to
31 drive a vehicle that is fitted with an operating ignition interlock
32 device and that he or she is required to have a valid driver's license
33 before he or she can drive.

34 (v) The person is subject to the requirements of this section
35 when he or she purchases or has access to a vehicle.

36 (B) The person's driver's license record has been restricted
37 pursuant to subdivision (d).

38 (C) The person complies with this section immediately upon
39 commencing ownership or operation of a vehicle subject to the
40 required installation of an ignition interlock device.

1 (2) A person who has been granted an exemption pursuant to
2 this subdivision and who subsequently drives a vehicle in violation
3 of the exemption is subject to the penalties of subdivision (i) in
4 addition to any other applicable penalties in law.

5 (h) This section does not permit a person to drive without a
6 valid driver's license.

7 (i) A person who is required under subdivision (c) to install an
8 ignition interlock device who willfully fails to install the ignition
9 interlock device within the time period required under subdivision
10 (c) is guilty of a misdemeanor and shall be punished by
11 imprisonment in the county jail for not more than six months or
12 by a fine of not more than five thousand dollars (\$5,000), or by
13 both that fine and imprisonment.

14 (j) In addition to all other requirements of this code, a person
15 convicted of any of the following violations shall be punished as
16 follows:

17 (1) Upon a conviction of a violation of Section 14601.2,
18 paragraph (1) of subdivision (a) of Section 14601.4, or Section
19 14601.5 subsequent to one prior conviction of a violation of Section
20 23103.5, 23152, or 23153, within a 10-year period, the person
21 shall immediately install a certified ignition interlock device,
22 pursuant to this section, in all vehicles owned or operated by that
23 person for a term of one year.

24 (2) Upon a conviction of a violation of Section 14601.2,
25 paragraph (1) of subdivision (a) of Section 14601.4, or Section
26 14601.5 subsequent to two prior convictions of a violation of
27 Section 23103.5, 23152, or 23153, within a 10-year period, or one
28 prior conviction of Section 14601.2, paragraph (1) of subdivision
29 (a) of Section 14601.4, or Section 14601.5, within a 10-year period,
30 the person shall immediately install a certified ignition interlock
31 device, pursuant to this section, in all vehicles owned or operated
32 by that person for a term of two years.

33 (3) Upon a conviction of a violation of Section 14601.2,
34 paragraph (1) of subdivision (a) of Section 14601.4, or Section
35 14601.5 subsequent to three or more prior convictions of a violation
36 of Section 23103.5, 23152, or 23153, within a 10-year period, or
37 two or more prior convictions of Section 14601.2, paragraph (1)
38 of subdivision (a) of Section 14601.4, or Section 14601.5, within
39 a 10-year period, the person shall immediately install a certified

1 ignition interlock device, pursuant to this section, in all vehicles
2 owned or operated by that person for a term of three years.

3 (k) The department shall notify the court if a person subject to
4 this section has failed to show proof of installation within 30 days
5 of the department informing the person he or she is required to
6 install a certified ignition interlock device.

7 (l) Subdivisions (j), (k), (m), (n), and (o) of Section 23575 apply
8 to this section.

9 (m) The requirements of this section are in addition to any other
10 requirements of law.

11 (n) This section shall become operative on July 1, 2009.

12 ~~SEC. 5.~~

13 *SEC. 3.* No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.