

AMENDED IN ASSEMBLY MAY 2, 2016

AMENDED IN ASSEMBLY APRIL 5, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 2227**

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**Introduced by Assembly Member Waldron**

February 18, 2016

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An act to amend Sections 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 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 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, this bill would impose a state-mandated local program.

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)~~  
9 (b) It is unlawful for a person, while driving a vehicle with a  
10 license suspended pursuant to a conviction for a violation of  
11 Section 23104 or 23105 to do an act forbidden by law or neglect  
12 a duty imposed by law in the driving of the vehicle, which act or  
13 neglect proximately causes bodily injury to a person other than  
14 the driver.  
15 ~~(3)~~  
16 (c) In proving the person neglected a duty imposed by law in  
17 the driving of the vehicle, it is not necessary to prove that a specific  
18 section of this code was violated.  
19 ~~(b)~~  
20 (d) A person convicted under this section whose license was  
21 suspended or revoked pursuant to Section 14601.2 shall be  
22 imprisoned in the county jail and shall not be released upon work

1 release, community service, or other release program before the  
2 minimum period of imprisonment, prescribed in Section 14601.2,  
3 is served. If a person is convicted of that offense and is granted  
4 probation, the court shall require that the person convicted serve  
5 at least the minimum time of imprisonment, as specified in that  
6 section, as a term or condition of probation.

7 ~~(e)~~

8 (e) A person convicted under this section whose license was  
9 suspended pursuant to a conviction for a violation of Section 23104  
10 or 23105 shall be imprisoned in the county jail and shall not be  
11 released upon work release, community service, or other release  
12 program before the minimum period of imprisonment prescribed  
13 in Section 14601 is served. If a person is convicted under this  
14 section and is granted probation, the court shall require the person  
15 to serve at least the minimum time of imprisonment specified in  
16 Section 14601 as a term or condition of probation.

17 ~~(d)~~

18 (f) When the prosecution agrees to a plea of guilty or nolo  
19 contendere to a charge of a violation of this section in satisfaction  
20 of, or as a substitute for, an original charge of a violation of Section  
21 14601.2, and the court accepts that plea, except, in the interest of  
22 justice, when the court finds it should be inappropriate, the court  
23 shall, pursuant to Section 23575, require the person convicted, in  
24 addition to other requirements, to install a certified ignition  
25 interlock device on a vehicle that the person owns or operates for  
26 a period not to exceed three years.

27 ~~(e)~~

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

33 ~~(f)~~

34 (h) Upon receipt of the abstract of a conviction for a person  
35 whose license was suspended or revoked pursuant to Section  
36 14601.2 and when the court requires the person to install a certified  
37 ignition interlock device pursuant to subdivision~~—(d)~~; (f), the  
38 department shall not reinstate the privilege to operate a motor  
39 vehicle until the department receives proof of either the  
40 “Verification of Installation” form as described in paragraph (2)

1 of subdivision (h) of Section 13386 or the Judicial Council Form  
2 I.D. 100.

3 ~~(g)~~

4 (i) If Section 23573 is applicable, then subdivisions ~~(d)~~ and (f)  
5 and (h) are not applicable.

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

7 23573. (a) The Department of Motor Vehicles, upon receipt  
8 of the court's abstract of conviction for a violation listed in  
9 subdivision (j), shall inform the convicted person of the  
10 requirements of this section and the term for which the person is  
11 required to have a certified ignition interlock device installed. The  
12 records of the department shall reflect the mandatory use of the  
13 device for the term required and the time when the device is  
14 required to be installed pursuant to this code.

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

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

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

24 (2) Notify the department and provide to the department proof  
25 of installation by submitting the "Verification of Installation" form  
26 described in paragraph (2) of subdivision (g) of Section 13386.

27 (3) Pay to the department a fee sufficient to cover the costs of  
28 administration of this section, including startup costs, as determined  
29 by the department.

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

34 (e) (1) A person who is notified by the department pursuant to  
35 subdivision (a) shall arrange for each vehicle with an ignition  
36 interlock device to be serviced by the installer at least once every  
37 60 days in order for the installer to recalibrate and monitor the  
38 operation of the device.

39 (2) The installer shall notify the department if the device is  
40 removed or indicates that the person has attempted to remove,

bypass, or tamper with the device, or if the person fails three or more times to comply with any requirement for the maintenance or calibration of the ignition interlock device.

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

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

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

(i) The person does not own a vehicle.

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

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

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

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

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

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

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

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

(i) A person who is required under subdivision (c) to install an ignition interlock device who willfully fails to install the ignition interlock device within the time period required under subdivision (c) is guilty of a misdemeanor and shall be punished by imprisonment in the county jail for not more than six months or

1 by a fine of not more than five thousand dollars (\$5,000), or by  
2 both that fine and imprisonment.

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

6 (1) Upon a conviction of a violation of Section 14601.2,  
7 ~~paragraph (1) of subdivision (a) of Section 14601.4, or Section~~  
8 14601.5 subsequent to one prior conviction of a violation of Section  
9 23103.5, 23152, or 23153, within a 10-year period, the person  
10 shall immediately install a certified ignition interlock device,  
11 pursuant to this section, in all vehicles owned or operated by that  
12 person for a term of one year.

13 (2) Upon a conviction of a violation of Section 14601.2,  
14 ~~paragraph (1) of subdivision (a) of Section 14601.4, or Section~~  
15 14601.5 subsequent to two prior convictions of a violation of  
16 Section 23103.5, 23152, or 23153, within a 10-year period, or one  
17 prior conviction of Section 14601.2, ~~paragraph (1) of subdivision~~  
18 (a) of Section 14601.4, or Section 14601.5, within a 10-year period,  
19 the person shall immediately install a certified ignition interlock  
20 device, pursuant to this section, in all vehicles owned or operated  
21 by that person for a term of two years.

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

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

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

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

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

1     SEC. 3. No reimbursement is required by this act pursuant to  
2     Section 6 of Article XIII B of the California Constitution because  
3     the only costs that may be incurred by a local agency or school  
4     district will be incurred because this act creates a new crime or  
5     infraction, eliminates a crime or infraction, or changes the penalty  
6     for a crime or infraction, within the meaning of Section 17556 of  
7     the Government Code, or changes the definition of a crime within  
8     the meaning of Section 6 of Article XIII B of the California  
9     Constitution.

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