

**ASSEMBLY BILL**

**No. 2367**

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**Introduced by Assembly Member Cooley**

February 18, 2016

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An act to add and repeal Section 23583 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2367, as introduced, Cooley. Driving under the influence: 24/7 Sobriety program.

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.

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" monitoring program, as defined, during probation or any other release that is subject to the jurisdiction of the county probation department, if the program is available and deemed appropriate, and the person has one or more prior convictions for that crime. The bill would define a "24/7 Sobriety program," in part,

as requiring a person in the program to abstain from alcohol and be subject to frequent testing for alcohol. The bill would authorize a court to impose sanctions for violations of the program by ordering the person to be incarcerated in the county jail for no more than 12 hours for the first violation, and no more than 24 hours for the 2nd and any subsequent violation. 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. The bill would require the Department of Motor Vehicles to study and report to the Legislature by January 1, 2020, on the success of the 24/7 Sobriety program in reducing the driving-under-the-influence recidivism rate in counties where it is used. These provisions would be repealed on January 1, 2021.

By increasing penalties in connection with a conviction for driving under the influence, 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. The Legislature finds and declares the following:
- 2 (a) Alcohol consumption and driving under the influence impose
- 3 enormous health and safety costs on California. Problem drinkers
- 4 account for a disproportionate share of these costs. California has
- 5 had success with its current approach to driving under the influence
- 6 by lowering blood alcohol concentration limits and by focusing
- 7 on reducing the likelihood that individuals drive while intoxicated.
- 8 However, California has been less successful at targeting those
- 9 with an underlying alcohol problem that makes them more likely
- 10 to consistently drive while impaired.
- 11 (b) Those with previous convictions for driving under the
- 12 influence are far more likely to recidivate than first-time offenders.
- 13 Moreover, these people are disproportionately involved in
- 14 alcohol-related traffic fatalities and are likely to have a diagnosis
- 15 of alcohol dependence.

1 (c) In 2005, South Dakota started a pilot program called “24/7  
2 Sobriety” and required those arrested for or convicted of  
3 alcohol-related offenses to take twice-a-day breathalyzer tests or  
4 wear a continuous alcohol monitoring bracelet. Those who fail or  
5 skip their tests are immediately subject to certain but modest  
6 sanctions, typically a day or two in jail. After a five-county pilot  
7 project, the program grew to include more jurisdictions and  
8 offenses. Studies have found that the total number of repeat  
9 driving-under-the-influence arrests in counties operating the  
10 program fell by 12 percent, and the total number of arrests for  
11 domestic violence dropped by 9 percent.

12 SEC. 2. Section 23583 is added to the Vehicle Code, to read:

13 23583. (a) (1) In order to strengthen the pretrial and posttrial  
14 options available to prosecutors and judges, the court may order  
15 a person convicted of a violation of Section 23152 or 23153 to  
16 enroll and participate in, and successfully complete, a qualified  
17 “24/7 Sobriety” monitoring program as a condition of probation  
18 or other release that is subject to the jurisdiction of the county  
19 probation department, if the program is available and deemed  
20 appropriate, and the person has one or more prior convictions for  
21 a violation of Section 23152 or 23153.

22 (2) For purposes of this section, a “24/7 Sobriety program”  
23 requires a person in the program to abstain from alcohol and  
24 requires the person to be subject to frequent testing with certain  
25 but modest punishment for violations. The program shall be  
26 evidence-based and approved by the department. Persons ordered  
27 into the program may also be required to participate in other  
28 driving-under-the-influence programs as provided by other law.  
29 The program shall be licensed pursuant to Section 11836 of the  
30 Health and Safety Code.

31 (3) For purposes of this paragraph, the term “evidence-based  
32 program” means a program that satisfies the requirements of at  
33 least two of the following:

34 (A) The program is included in the federal registry of  
35 evidence-based programs and practices.

36 (B) The program has been reported in a peer-reviewed journal  
37 as having positive effects on the primary targeted outcome.

38 (C) The program has been documented as effective by informed  
39 experts and other sources.

1 (b) As the court deems appropriate, the program may monitor  
2 alcohol through one or more of the following modalities:

3 (1) Breath testing, twice a day.

4 (2) Continuous transdermal alcohol monitoring in cases of  
5 hardship.

6 (3) Random blood, breath, urine, or oral fluid testing.

7 (c) Testing locations that provide the best ability to sanction a  
8 violation as close in time as reasonably feasible to the occurrence  
9 of the violation should be given preference.

10 (d) In order to enable all required defendants to participate, each  
11 person shall pay the program costs commensurate with the person's  
12 ability to pay as determined pursuant to Section 11837.4 of the  
13 Health and Safety Code.

14 (e) The court, in establishing reporting requirements, shall  
15 consult with the county probation department.

16 (f) The court shall advise the person at the time of sentencing  
17 that the driving privilege may not be restored until the person  
18 provides proof satisfactory to the department of successful  
19 completion of the program.

20 (g) A violation of the program requirements may be punished  
21 by the court ordering the person to be incarcerated in the county  
22 jail for no more than 12 hours for the first violation, and no more  
23 than 24 hours for the second and any subsequent violation.

24 (h) The department shall study and report to the Legislature by  
25 January 1, 2020, on the success of the 24/7 Sobriety program  
26 authorized pursuant to this section in reducing the  
27 driving-under-the-influence recidivism rate in counties where it  
28 is used. The report shall be submitted pursuant to Section 9795 of  
29 the Government Code.

30 (i) This section shall remain in effect only until January 1, 2021,  
31 and as of that date is repealed, unless a later enacted statute, that  
32 is enacted before January 1, 2021, deletes or extends that date.

33 SEC. 3. No reimbursement is required by this act pursuant to  
34 Section 6 of Article XIII B of the California Constitution because  
35 the only costs that may be incurred by a local agency or school  
36 district will be incurred because this act creates a new crime or  
37 infraction, eliminates a crime or infraction, or changes the penalty  
38 for a crime or infraction, within the meaning of Section 17556 of  
39 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California  
2 Constitution.

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