

AMENDED IN ASSEMBLY APRIL 11, 2016

AMENDED IN ASSEMBLY MARCH 28, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2367**

---

**Introduced by Assembly Member Cooley**

February 18, 2016

---

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2367, as amended, 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, 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 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. *The bill would provide that a person in the program may obtain a temporary restricted driver’s license upon proof of insurance, 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 These provisions would be repealed on January 1, 2021.

Vote: majority. Appropriation: no. Fiscal committee: 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 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.
- 16 (c) In 2005, South Dakota started a pilot program called “24/7
- 17 Sobriety” and required those arrested for or convicted of
- 18 alcohol-related offenses to take twice-a-day breathalyzer tests or
- 19 wear a continuous alcohol monitoring bracelet. Those who fail or
- 20 skip their tests are immediately subject to certain but modest

1 sanctions, typically a day or two in jail. After a five-county pilot  
2 project, the program grew to include more jurisdictions and  
3 offenses. Studies have found that the total number of repeat  
4 driving-under-the-influence arrests in counties operating the  
5 program fell by 12 percent, and the total number of arrests for  
6 domestic violence dropped by 9 percent.

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

8 23583. (a) (1) In order to strengthen the posttrial options  
9 available to prosecutors and judges, the court may order a person  
10 convicted of a violation of Section 23152 or 23153 to enroll and  
11 participate in, and successfully complete, a qualified “24/7  
12 Sobriety” monitoring program as a condition of probation, if the  
13 program is available and deemed appropriate, and the person  
14 committed the current violation within 10 years of one or more  
15 separate violations of Section 23152 or 23153 that resulted in a  
16 conviction.

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

28 (3) For purposes of this subdivision, the term “evidence-based  
29 program” means a program that satisfies the requirements of at  
30 least two of the following:

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

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

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

37 (b) As the court deems appropriate, the program may monitor  
38 alcohol *or controlled substances* through one or more of the  
39 following modalities:

40 (1) Breath testing, twice a day.

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

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

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

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

11 *(e) The court shall not impose a program of more than 180 days*  
12 *in length unless the defendant tests positive for alcohol or an*  
13 *unauthorized controlled substance or fails to appear for a test.*

14 ~~(e)~~

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

17 (g) (1) *The court may notify the department that a person*  
18 *participating in the program who provides proof of insurance is*  
19 *eligible for a temporary restricted driver's license.*

20 (2) *If the person fails to comply with the program's*  
21 *requirements, the court shall notify the department of the*  
22 *individual's noncompliance and direct the department to withdraw*  
23 *the person's restricted driver's license and reinstate the remainder*  
24 *of the suspension period. The person's driving privilege shall not*  
25 *be restored until the person provides proof satisfactory to the*  
26 *department of successful completion of the program.*

27 (3) *Notwithstanding any other law, a person who receives a*  
28 *temporary restricted driver's license pursuant to this section is*  
29 *exempt from any requirement to install an ignition interlock device*  
30 *on the person's vehicle during the time the person is participating*  
31 *in the program.*

32 ~~(f)~~

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

39 ~~(g)~~

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

O