

AMENDED IN ASSEMBLY APRIL 25, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2687

Introduced by Assembly Members Achadjian, Low, and Chang

February 19, 2016

An act to amend Sections ~~23152, 23153, and 23572~~ *23152 and 23153* of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2687, as amended, Achadjian. Vehicles: passenger for hire: driving under the influence.

Existing law makes it unlawful for a person who is under the influence of any alcoholic beverage or drug to drive a vehicle. Existing law makes it unlawful for a person who has 0.04 percent or more, by weight, of alcohol in his or her blood to drive a commercial motor vehicle, as defined. Existing law also makes it unlawful for a person who has ~~0.05~~ *0.04* percent or more, by weight, of alcohol in his or her blood to drive a commercial motor vehicle and concurrently do any act forbidden by law or neglect any duty imposed by law that proximately causes bodily injury to another person other than the driver.

This bill would make it unlawful for a person who has 0.04 percent or more, by weight, of alcohol in his or her blood to drive a motor vehicle when a passenger for hire, as defined, is a passenger in the vehicle at the time of the offense. The bill would also make it unlawful for a person who has 0.04 percent or more, by weight, of alcohol in his or her blood to drive a motor vehicle, as specified, and concurrently do any act or neglect any duty that proximately causes bodily injury to another person other than the driver. ~~The bill would require the court to impose an additional and consecutive term of 60 days in county jail,~~

as specified, when a person is convicted of having 0.04 percent or more of alcohol in his or her blood and driving a motor vehicle with a passenger for hire. ~~Because this bill would create a new crime, it would impose a state-mandated local program.~~ *Because this bill would expand the application of a crime to more people, it 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 23152 of the Vehicle Code is amended
2 to read:

3 23152. (a) It is unlawful for a person who is under the
4 influence of any alcoholic beverage to drive a vehicle.

5 (b) It is unlawful for a person who has 0.08 percent or more, by
6 weight, of alcohol in his or her blood to drive a vehicle.

7 For purposes of this article and Section 34501.16, percent, by
8 weight, of alcohol in a person’s blood is based upon grams of
9 alcohol per 100 milliliters of blood or grams of alcohol per 210
10 liters of breath.

11 In any prosecution under this subdivision, it is a rebuttable
12 presumption that the person had 0.08 percent or more, by weight,
13 of alcohol in his or her blood at the time of driving the vehicle if
14 the person had 0.08 percent or more, by weight, of alcohol in his
15 or her blood at the time of the performance of a chemical test
16 within three hours after the driving.

17 (c) It is unlawful for a person who is addicted to the use of any
18 drug to drive a vehicle. This subdivision shall not apply to a person
19 who is participating in a narcotic treatment program approved
20 pursuant to Article 3 (commencing with Section 11875) of Chapter
21 1 of Part 3 of Division 10.5 of the Health and Safety Code.

22 (d) (1) It is unlawful for a person who has 0.04 percent or more,
23 by weight, of alcohol in his or her blood to drive a commercial
24 motor vehicle, as defined in Section 15210, or to drive a motor

1 vehicle when a passenger for hire is a passenger in the vehicle at
2 the time of the offense. A passenger for hire means a passenger
3 for whom consideration is contributed or expected as a condition
4 of carriage in the vehicle, whether directly or indirectly flowing
5 to the owner, operator, agent, or any other person having an interest
6 in the vehicle.

7 (2) In any prosecution under this subdivision, it is a rebuttable
8 presumption that the person had 0.04 percent or more, by weight,
9 of alcohol in his or her blood at the time of driving the vehicle if
10 the person had 0.04 percent or more, by weight, of alcohol in his
11 or her blood at the time of the performance of a chemical test
12 within three hours after the driving.

13 (e) It is unlawful for a person who is under the influence of any
14 drug to drive a vehicle.

15 (f) It is unlawful for a person who is under the combined
16 influence of any alcoholic beverage and drug to drive a vehicle.

17 SEC. 2. Section 23153 of the Vehicle Code is amended to read:

18 23153. (a) It is unlawful for a person, while under the influence
19 of any alcoholic ~~beverage~~ *beverage*, to drive a vehicle and
20 concurrently do any act forbidden by law, or neglect any duty
21 imposed by law in driving the vehicle, which act or neglect
22 proximately causes bodily injury to any person other than the
23 driver.

24 (b) It is unlawful for a person, while having 0.08 percent or
25 more, by weight, of alcohol in his or her blood to drive a vehicle
26 and concurrently do any act forbidden by law, or neglect any duty
27 imposed by law in driving the vehicle, which act or neglect
28 proximately causes bodily injury to any person other than the
29 driver.

30 In any prosecution under this subdivision, it is a rebuttable
31 presumption that the person had 0.08 percent or more, by weight,
32 of alcohol in his or her blood at the time of driving the vehicle if
33 the person had 0.08 percent or more, by weight, of alcohol in his
34 or her blood at the time of the performance of a chemical test
35 within three hours after driving.

36 (c) In proving the person neglected any duty imposed by law
37 in driving the vehicle, it is not necessary to prove that any specific
38 section of this code was violated.

39 (d) (1) It is unlawful for a person, while having 0.04 percent
40 or more, by weight, of alcohol in his or her blood to drive a

1 commercial motor vehicle, as defined in Section 15210, or to drive
 2 a motor vehicle when a passenger for hire is a passenger in the
 3 vehicle at the time of the offense, and concurrently to do any act
 4 forbidden by law or neglect any duty imposed by law in driving
 5 the vehicle, which act or neglect proximately causes bodily injury
 6 to any person other than the driver. A passenger for hire means a
 7 passenger for whom consideration is contributed or expected as a
 8 condition of carriage in the vehicle, whether directly or indirectly
 9 flowing to the owner, operator, agent, or any other person having
 10 an interest in the vehicle.

11 (2) In any prosecution under this subdivision, it is a rebuttable
 12 presumption that the person had 0.04 percent or more, by weight,
 13 of alcohol in his or her blood at the time of driving the vehicle if
 14 the person had 0.04 percent or more, by weight, of alcohol in his
 15 or her blood at the time of performance of a chemical test within
 16 three hours after driving.

17 (e) It is unlawful for a person, while under the influence of any
 18 drug, to drive a vehicle and concurrently do any act forbidden by
 19 law, or neglect any duty imposed by law in driving the vehicle,
 20 which act or neglect proximately causes bodily injury to any person
 21 other than the driver.

22 (f) It is unlawful for a person, while under the combined
 23 influence of any alcoholic beverage and drug, to drive a vehicle
 24 and concurrently do any act forbidden by law, or neglect any duty
 25 imposed by law in driving the vehicle, which act or neglect
 26 proximately causes bodily injury to any person other than the
 27 driver.

28 ~~(g) This section shall become operative on January 1, 2014.~~

29 ~~SEC. 3. Section 23572 of the Vehicle Code is amended to read:~~

30 ~~23572. (a) If any person is convicted of a violation of Section~~
 31 ~~23152 and a minor under 14 years of age was a passenger in the~~
 32 ~~vehicle at the time of the offense, the court shall impose the~~
 33 ~~following penalties in addition to any other penalty prescribed:~~

34 ~~(1) If the person is convicted of a violation of Section 23152~~
 35 ~~punishable under Section 23536, the punishment shall be enhanced~~
 36 ~~by an imprisonment of 48 continuous hours in the county jail,~~
 37 ~~whether or not probation is granted, no part of which shall be~~
 38 ~~stayed.~~

39 ~~(2) If a person is convicted of a violation of Section 23152~~
 40 ~~punishable under Section 23540, the punishment shall be enhanced~~

1 by an imprisonment of 10 days in the county jail, whether or not
2 probation is granted, no part of which may be stayed.

3 ~~(3) If a person is convicted of a violation of Section 23152~~
4 ~~punishable under Section 23546, the punishment shall be enhanced~~
5 ~~by an imprisonment of 30 days in the county jail, whether or not~~
6 ~~probation is granted, no part of which may be stayed.~~

7 ~~(4) If a person is convicted of a violation of Section 23152 which~~
8 ~~is punished as a misdemeanor under Section 23550, the punishment~~
9 ~~shall be enhanced by an imprisonment of 90 days in the county~~
10 ~~jail, whether or not probation is granted, no part of which may be~~
11 ~~stayed.~~

12 ~~(b) The driving of a vehicle in which a minor under 14 years of~~
13 ~~age was a passenger shall be pled and proven.~~

14 ~~(e) No punishment enhancement shall be imposed pursuant to~~
15 ~~this section if the person is also convicted of a violation of Section~~
16 ~~273a of the Penal Code arising out of the same facts and incident.~~

17 ~~(d) If any person is convicted of a violation of Section 23152~~
18 ~~or 23153, and a passenger for hire was a passenger in the vehicle~~
19 ~~at the time of the offense, the court shall impose an additional and~~
20 ~~consecutive term of 60 days in the county jail, whether or not~~
21 ~~probation is granted, and no part of that term shall be stayed. A~~
22 ~~passenger for hire means a passenger for whom consideration is~~
23 ~~contributed or expected as a condition of carriage in the vehicle,~~
24 ~~whether directly or indirectly flowing to the owner, operator, agent,~~
25 ~~or any other person having an interest in the vehicle.~~

26 ~~SEC. 4.~~

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