

AMENDED IN ASSEMBLY JUNE 29, 2016

SENATE BILL

No. 1066

Introduced by Senator Beall

February 16, 2016

An act to add Section 164.2 to the Streets and Highways Code, *and to add Section 23582.5 to the Vehicle Code*, relating to ~~transportation~~.
highway safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 1066, as amended, Beall. ~~Transportation funds: fund estimates.~~
Highway safety.

Existing law establishes the state transportation improvement program process, pursuant to which the California Transportation Commission programs, on a biennial basis, available state and federal funds for transportation capital improvement projects, other than state highway rehabilitation and repair projects, for the 5-year period of the state transportation improvement program, based on the interregional transportation improvement program prepared by the Department of Transportation and the regional transportation improvement programs prepared by regional transportation planning agencies. Existing law requires the Department of Transportation to submit to the California Transportation Commission an estimate of state and federal funds reasonably expected to be available for future programming over the 5-year period in each state transportation improvement program, and requires the California Transportation Commission to adopt a fund estimate in that regard.

This bill would require the fund estimates prepared by the department and the commission to identify and include federal funds derived from

apportionments made to the state under the Fixing America's Surface Transportation (FAST) Act of 2015.

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.

Existing law requires the Department of Motor Vehicles to immediately suspend a person's privilege to operate a motor vehicle for a specified period of time if the person has driven a motor vehicle when the person had a certain blood-alcohol concentration. Existing law also requires the department to suspend or revoke the driving privilege of a person who refuses an officer's request or fails to complete a chemical test or tests, as specified. Existing law authorizes certain individuals whose privilege is suspended or revoked pursuant to that provision to receive a restricted driver's license if specified requirements are met, including the completion of specified periods of license suspension or revocation and, in some instances, the installation of an ignition interlock device on the person's vehicle.

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 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 also would authorize a court to order participation in a 24/7 Sobriety program as a condition of release on bond for a person who has been charged with a crime described above, as specified. The bill would permit a person whose driving privilege has been suspended or revoked for certain violations, and who subsequently applies to the department for a restricted driving privilege, to be permitted to participate in a 24/7 Sobriety program for a minimum of one year as a condition of obtaining the restricted driving privilege as

an alternative to, or in conjunction with, participation in an ignition interlock device program. 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 make related legislative findings and declarations and state the intent of the Legislature to enact these provisions for the purpose of making the state eligible to receive grant funding under the FAST Act and additional funding from the National Highway Traffic Safety Administration.

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 as follows:*
- 2 (a) *On December 4, 2015, Congress passed, and the President*
- 3 *signed into law, the Fixing America’s Surface Transportation*
- 4 *(FAST) Act (Public Law 114-94).*
- 5 (b) *The FAST Act provides long-term funding certainty for*
- 6 *surface transportation and requires the National Highway Traffic*
- 7 *Safety Administration (NHTSA) to award certain grants pursuant*
- 8 *to rulemaking.*
- 9 (c) *The FAST Act includes grant programs for states that meet*
- 10 *requirements associated with impaired driving interventions,*
- 11 *including 24/7 Sobriety programs. These programs typically*
- 12 *approach impaired driving deterrence by focusing on the most*
- 13 *high-risk offenders, requiring abstinence from alcohol or illegal*
- 14 *drugs, testing compliance multiple times per day, and swiftly*
- 15 *delivering defined consequences for noncompliance.*
- 16 (d) *The FAST Act permits the NHTSA to award 24/7 Sobriety*
- 17 *program grants to states that meet two separate requirements:*
- 18 (1) *That a state enact and enforce a law that requires all*
- 19 *individuals convicted of driving under the influence of alcohol or*
- 20 *of driving while intoxicated to receive at least a 30-day restriction*
- 21 *on driving privileges. California currently meets this requirement.*
- 22 (2) *That a state provide a 24/7 Sobriety program with statewide*
- 23 *applicability. A “24/7 Sobriety program” is a state law or program*

1 *that authorizes a state court or an agency with jurisdiction to*
2 *require an individual who has committed a*
3 *driving-under-the-influence offense to abstain from alcohol or*
4 *controlled substances for a period of time and be subject to testing*
5 *for alcohol or controlled substances at least twice per day at a*
6 *testing location, or by a continuous transdermal monitoring device,*
7 *or by an alternative method approved by the NHTSA. California*
8 *does not yet meet this requirement.*

9 *(e) Additional federal grant moneys are available to states under*
10 *the NHTSA's highway safety programs and national priority safety*
11 *programs pursuant to Sections 402 and 405 of Title 23 of the*
12 *United States Code.*

13 *(f) It is the intent of the Legislature in enacting this act to*
14 *authorize a statewide 24/7 Sobriety program so that California is*
15 *eligible for the new 24/7 FAST Act grant funding and additional*
16 *funding available through the NHTSA.*

17 **SECTION 1.**

18 **SEC. 2.** Section 164.2 is added to the Streets and Highways
19 Code, to read:

20 164.2. Federal funds derived from apportionments made to the
21 state under the Fixing America's Surface Transportation Act
22 ("FAST Act," Public Law ~~114-094~~ 114-94) shall be identified
23 and included in the fund estimates prepared pursuant to Sections
24 14524 and 14525 of the Government Code for purposes of the
25 interregional transportation improvement program prepared by the
26 department pursuant to Section 14526 of the Government Code,
27 the regional transportation improvement programs prepared by
28 the regional transportation agencies pursuant to Section 14527 of
29 the Government Code, and the state transportation improvement
30 program adopted by the commission pursuant to Section 14529 of
31 the Government Code.

32 **SEC. 3.** Section 23582.5 is added to the Vehicle Code, to read:

33 23582.5. (a) *The court may order a person convicted of a*
34 *violation of Section 23152 or 23153 to enroll and participate in,*
35 *and successfully complete, a qualified 24/7 Sobriety program, as*
36 *described in subdivision (d), as a condition of probation, parole,*
37 *sentence, or work permit if the program is available and deemed*
38 *appropriate, and the person committed the current violation within*
39 *10 years of one or more separate violations of Section 23152 or*
40 *23153 that resulted in a conviction.*

1 ***(b) The court may require a person who has been arrested for***
2 ***a violation of Section 23152 or 23153 to enroll and participate in,***
3 ***and successfully complete, a qualified 24/7 Sobriety program, as***
4 ***described in subdivision (d), as a condition of release on bond, if***
5 ***the program is available and deemed appropriate, and the person***
6 ***committed the current violation within 10 years of one or more***
7 ***separate violations of Section 23152 or 23153 that resulted in a***
8 ***conviction.***

9 ***(c) A person whose driving privilege has been suspended or***
10 ***revoked pursuant to Section 13352 or 13353 and who subsequently***
11 ***applies to the department for a restricted driving privilege shall***
12 ***be permitted to enroll and participate in, and successfully complete,***
13 ***a 24/7 Sobriety program as a condition of obtaining the restricted***
14 ***driving privilege if the program is available and deemed***
15 ***appropriate, and the person was charged with the current violation***
16 ***within 10 years of one or more separate violations of Section 23152***
17 ***or 23153 that resulted in a conviction. The restricted driving***
18 ***privilege granted under this subdivision shall be for a minimum***
19 ***of one year and may be conditioned on participation in the 24/7***
20 ***Sobriety program as an alternative to, or in conjunction with,***
21 ***participation in an ignition interlock device program.***

22 ***(d) For purposes of this section, a “24/7 Sobriety program”***
23 ***requires a participant to abstain from alcohol or controlled***
24 ***substance use for a designated period of time and be subject to at***
25 ***least twice-per-day breath testing for alcohol or periodic testing***
26 ***for controlled substances at a testing location. In the event of a***
27 ***hardship, testing for alcohol may be accomplished by a continuous***
28 ***transdermal monitoring device or by an alternative method***
29 ***approved by the National Highway Traffic Safety Administration.***
30 ***Methodologies that provide immediate, in-person positive***
31 ***reinforcement for compliant behavior and the most immediate***
32 ***sanctions for noncompliant events are preferred testing***
33 ***methodologies under this program. However, a participant’s ability***
34 ***to maintain employment, schooling, or family life, usually due to***
35 ***lack of proximity to a testing location, may be considered a***
36 ***hardship for the purposes of this subdivision. The 24/7 Sobriety***
37 ***program methodology shall be evidence-based. “Evidence-based”***
38 ***means the program methodology meets at least two of the following***
39 ***criteria:***

- 1 (1) *Evaluation research shows that the program produces the*
2 *expected positive results.*
- 3 (2) *The results can be attributed to the program itself, rather*
4 *than to other extraneous factors or events.*
- 5 (3) *The evaluation is peer reviewed by experts in the field.*
- 6 (4) *The program is endorsed by a federal agency or respected*
7 *research organization and included in its list of effective programs.*
- 8 (e) *A person ordered into a 24/7 Sobriety program may also be*
9 *required to participate in any other driving-under-the-influence*
10 *program required under California law, including, but not limited*
11 *to, programs provided in Section 11836 of the Health and Safety*
12 *Code.*
- 13 (f) *Testing locations and methods that provide the best ability*
14 *to sanction a violation as close in time as reasonably feasible to*
15 *the occurrence of the violation should be given preference.*
- 16 (g) *In order to enable all required defendants to participate,*
17 *each person shall pay the program costs commensurate with the*
18 *person’s ability to pay as determined pursuant to Section 11837.4*
19 *of the Health and Safety Code.*
- 20 (h) *The court shall not impose a program of more than 180 days*
21 *in length unless the defendant tests positive for alcohol or an*
22 *unauthorized controlled substance or fails to appear for a test.*
- 23 (i) *The Office of Traffic Safety shall include a description of the*
24 *provisions authorizing the 24/7 Sobriety program pursuant to this*
25 *section in its highway safety plan required to be submitted to the*
26 *NHTSA under subsection (k) of Section 402 of Title 23 of the United*
27 *States Code, including any application requirements necessary to*
28 *qualify for grants under Section 405 of Title 23 of the United States*
29 *Code.*
- 30 (j) *The department shall establish statewide uniform collection*
31 *and reporting of all of the following data:*
 - 32 (1) *Participant demographic information.*
 - 33 (2) *Participant case history information.*
 - 34 (3) *Testing information, including testing duration, test results,*
35 *and testing attendance.*
 - 36 (4) *Fees and fee payments.*

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