

Introduced by Senator Huff

February 18, 2016

An act to amend Sections 12814.6 and 23124 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1223, as introduced, Huff. Provisional driver's licenses.

Existing law, the Brady-Jared Teen Driver Safety Act of 1997, permits a person who is at least 16 years of age, but under 18 years of age, to apply for and be issued a provisional driver's license. The act requires licensees to comply with certain requirements, including completing specified driver education and training, and imposes certain driving restrictions on licensees, including, among other restrictions, prohibiting licensees, during the first 12 months after issuance of the provisional license, from driving during the hours between 11 p.m. and 5 a.m., or transporting passengers who are under 20 years of age, except as specified. A violation of these driving restrictions is a crime.

Existing law makes it an infraction punishable by a base fine of \$20 for a first offense and \$50 for each subsequent offense for a person under 18 years of age to drive a motor vehicle while using a wireless telephone or an electronic wireless communication device, as specified.

This bill would require that the provisional driver's license and the accompanying restrictions imposed upon that license remain in effect until the driver reaches 18 years of age, if a minor who holds the provisional license is convicted of driving a motor vehicle while using a wireless telephone or an electronic wireless communication device, as specified. By expanding the scope of a crime, the 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 12814.6 of the Vehicle Code is amended
2 to read:

3 12814.6. (a) Except as provided in Section 12814.7, a driver's
4 license issued to a person at least 16 years of ~~age~~ *age*, but under
5 18 years of ~~age~~ *age*, shall be issued pursuant to the provisional
6 licensing program contained in this section. The program shall
7 consist of all of the following components:

8 (1) Upon application for an original license, the applicant shall
9 be issued an instruction permit pursuant to Section 12509. A person
10 who has in his or her immediate possession a valid permit issued
11 pursuant to Section 12509 may operate a motor vehicle, other than
12 a motorcycle or motorized bicycle, only when the person is either
13 taking the driver training instruction referred to in paragraph (3)
14 or practicing that instruction, provided the person is accompanied
15 by, and is under the immediate supervision of, a California licensed
16 driver 25 years of age or older whose driving privilege is not on
17 probation. The age requirement of this paragraph does not apply
18 if the licensed driver is the parent, spouse, or guardian of the
19 permitholder or is a licensed or certified driving instructor.

20 (2) The person shall hold an instruction permit for not less than
21 six months prior to applying for a provisional driver's license.

22 (3) The person shall have complied with one of the following:

23 (A) Satisfactory completion of approved courses in automobile
24 driver education and driver training maintained pursuant to
25 provisions of the Education Code in any secondary school of
26 California, or equivalent instruction in a secondary school of
27 another state.

28 (B) Satisfactory completion of an integrated driver education
29 and training program that is approved by the department and
30 conducted by a driving instructor licensed under Chapter 1

1 (commencing with Section 11100) of Division 5. The program
2 shall utilize segmented modules, whereby a portion of the
3 educational instruction is provided by, and then reinforced through,
4 specific behind-the-wheel training before moving to the next phase
5 of driver education and training. The program shall contain a
6 minimum of 30 hours of classroom instruction and six hours of
7 behind-the-wheel training.

8 (C) Satisfactory completion of six hours or more of
9 behind-the-wheel instruction by a driving school or an independent
10 driving instructor licensed under Chapter 1 (commencing with
11 Section 11100) of Division 5 and either an accredited course in
12 automobile driver education in any secondary school of California
13 pursuant to provisions of the Education Code or satisfactory
14 completion of equivalent professional instruction acceptable to
15 the department. To be acceptable to the department, the
16 professional instruction shall meet minimum standards to be
17 prescribed by the department, and the standards shall be at least
18 equal to the requirements for driver education and driver training
19 contained in the rules and regulations adopted by the State Board
20 of Education pursuant to the Education Code. A person who has
21 complied with this subdivision shall not be required by the
22 governing board of a school district to comply with subparagraph
23 (A) in order to graduate from high school.

24 (D) Except as provided under subparagraph (B), a student may
25 not take driver training instruction, unless he or she has
26 successfully completed driver education.

27 (4) The person shall complete 50 hours of supervised driving
28 practice prior to the issuance of a provisional license, which is in
29 addition to any other driver training instruction required by law.
30 Not less than 10 of the required practice hours shall include driving
31 during darkness, as defined in Section 280. Upon application for
32 a provisional license, the person shall submit to the department
33 the certification of a parent, spouse, guardian, or licensed or
34 certified driving instructor that the applicant has completed the
35 required amount of driving practice and is prepared to take the
36 department's driving test. A person without a parent, spouse,
37 guardian, or who is an emancipated minor, may have a licensed
38 driver 25 years of age or older or a licensed or certified driving
39 instructor complete the certification. This requirement does not
40 apply to motorcycle practice.

(5) The person shall successfully complete an examination required by the department. Before retaking a test, the person shall wait for not less than one week after failure of the written test and for not less than two weeks after failure of the driving test.

(b) Except as provided in Section 12814.7, the provisional driver's license shall be subject to all of the following restrictions:

(1) Except as specified in paragraph (2), during the first 12 months after issuance of a provisional license the licensee may not do any of the following unless accompanied and supervised by a licensed driver who is the licensee's parent or guardian, a licensed driver who is 25 years of age or older, or a licensed or certified driving instructor:

(A) Drive between the hours of 11 p.m. and 5 a.m.

(B) Transport passengers who are under 20 years of age.

(2) A licensee may drive between the hours of 11 p.m. and 5 a.m. or transport an immediate family member without being accompanied and supervised by a licensed driver who is the licensee's parent or guardian, a licensed driver who is 25 years of age or older, or a licensed or certified driving instructor, in the following circumstances:

(A) Medical necessity of the licensee when reasonable transportation facilities are inadequate and operation of a vehicle by a minor is necessary. The licensee shall keep in his or her possession a signed statement from a physician familiar with the condition, containing a diagnosis and probable date when sufficient recovery will have been made to terminate the necessity.

(B) Schooling or school-authorized activities of the licensee when reasonable transportation facilities are inadequate and operation of a vehicle by a minor is necessary. The licensee shall keep in his or her possession a signed statement from the school principal, dean, or school staff member designated by the principal or dean, containing a probable date that the schooling or school-authorized activity will have been completed.

(C) Employment necessity of the licensee when reasonable transportation facilities are inadequate and operation of a vehicle by a minor is necessary. The licensee shall keep in his or her possession a signed statement from the employer, verifying employment and containing a probable date that the employment will have been completed.

(D) Necessity of the licensee or the licensee's immediate family member when reasonable transportation facilities are inadequate and operation of a vehicle by a minor is necessary to transport the licensee or the licensee's immediate family member. The licensee shall keep in his or her possession a signed statement from a parent or legal guardian verifying the reason and containing a probable date that the necessity will have ceased.

(E) The licensee is an emancipated minor.

(3) If the person holds a provisional driver's license issued pursuant to this section, and he or she is convicted of violating Section 23124, the provisional license and its accompanying restrictions as described in this subdivision shall remain in effect until the person reaches 18 years of age, regardless of when the driver first received the provisional license. This paragraph does not affect, and shall not be interpreted to rescind or limit, the restriction or suspension of that license pursuant to any other law, including subdivision (g).

(c) A law enforcement officer shall not stop a vehicle for the sole purpose of determining whether the driver is in violation of the restrictions imposed under subdivision (b).

(d) A law enforcement officer shall not stop a vehicle for the sole purpose of determining whether a driver who is subject to the license restrictions in subdivision (b) is in violation of Article 2.5 (commencing with Section 118947) of Chapter 4 of Part 15 of Division 104 of the Health and Safety Code.

(e) (1) Upon a finding that any licensee has violated paragraph (1) of subdivision (b), the court shall impose one of the following:

(A) Not less than eight hours nor more than 16 hours of community service for a first offense and not less than 16 hours nor more than 24 hours of community service for a second or subsequent offense.

(B) A fine of not more than thirty-five dollars (\$35) for a first offense and a fine of not more than fifty dollars (\$50) for a second or subsequent offense.

(2) If the court orders community service, the court shall retain jurisdiction until the hours of community service have been completed.

(3) If the hours of community service have not been completed within 90 days, the court shall impose a fine of not more than

1 thirty-five dollars (\$35) for a first offense and not more than fifty
2 dollars (\$50) for a second or subsequent offense.

3 (f) A conviction of paragraph (1) of subdivision (b), when
4 reported to the department, may not be disclosed as otherwise
5 specified in Section 1808 or constitute a violation point count value
6 pursuant to Section 12810.

7 (g) Any term of restriction or suspension of the driving privilege
8 imposed on a person pursuant to this subdivision shall remain in
9 effect until the end of the term even though the person becomes
10 18 years of age before the term ends.

11 (1) The driving privilege shall be suspended when the record
12 of the person shows one or more notifications issued pursuant to
13 Section 40509 or 40509.5. The suspension shall continue until any
14 notification issued pursuant to Section 40509 or 40509.5 has been
15 cleared.

16 (2) A 30-day restriction shall be imposed when a driver's record
17 shows a violation point count of two or more points in 12 months,
18 as determined in accordance with Section 12810. The restriction
19 shall require the licensee to be accompanied by a licensed parent,
20 spouse, guardian, or other licensed driver 25 years of age or older,
21 except when operating a class M vehicle, or so licensed, with no
22 passengers aboard.

23 (3) A six-month suspension of the driving privilege and a
24 one-year term of probation shall be imposed whenever a licensee's
25 record shows a violation point count of three or more points in 12
26 months, as determined in accordance with Section 12810. The
27 terms and conditions of probation shall include, but not be limited
28 to, both of the following:

29 (A) The person shall ~~not violate no law which~~, *any law that*, if
30 resulting in conviction, is reportable to the department under
31 Section 1803.

32 (B) The person shall remain free from accident responsibility.

33 (h) Whenever action by the department under subdivision (g)
34 arises as a result of a motor vehicle accident, the person may, in
35 writing and within 10 days, demand a hearing to present evidence
36 that he or she was not responsible for the accident upon which the
37 action is based. Whenever action by the department is based upon
38 a conviction reportable to the department under Section 1803, the
39 person has no right to a hearing pursuant to Article 3 (commencing
40 with Section 14100) of Chapter 3.

(i) The department shall require a person whose driving privilege is suspended or revoked pursuant to subdivision (g) to submit proof of financial responsibility as defined in Section 16430. The proof of financial responsibility shall be filed on or before the date of reinstatement following the suspension or revocation. The proof of financial responsibility shall be maintained with the department for three years following the date of reinstatement.

(j) (1) Notwithstanding any other provision of this code, the department may issue a distinctive driver's license, that displays a distinctive color or a distinctively colored stripe or other distinguishing characteristic, to persons at least 16 years of age and older but under 18 years of age, and to persons 18 years of age and older but under 21 years of age, so that the distinctive license feature is immediately recognizable. The features shall clearly differentiate between driver's licenses issued to persons at least 16 years of age or older but under 18 years of age and to persons 18 years of age or older but under 21 years of age.

(2) If changes in the format or appearance of driver's licenses are adopted pursuant to this subdivision, those changes may be implemented under any new contract for the production of driver's licenses entered into after the adoption of those changes.

(k) The department shall include, on the face of the provisional driver's license, the original issuance date of the provisional driver's license in addition to any other issuance date.

(l) This section shall be known and may be cited as the Brady-Jared Teen Driver Safety Act of 1997.

SEC. 2. Section 23124 of the Vehicle Code is amended to read:

23124. (a) This section applies to a person under ~~the age of~~ 18 years. *18 years of age.*

(b) Notwithstanding Sections 23123 and 23123.5, a person described in subdivision (a) shall not drive a motor vehicle while using a wireless telephone or an electronic wireless communications device, even if equipped with a hands-free device.

(c) (1) A violation of this section is an infraction punishable by a base fine of twenty dollars (\$20) for a first offense and fifty dollars (\$50) for each subsequent offense.

(2) *If the person holds a provisional driver's license issued pursuant to Section 12814.6, and he or she is convicted of violating this section, the provisional license and its accompanying restrictions shall remain in effect until the person reaches 18 years*

1 *of age, regardless of when the driver first received the provisional*
2 *license. This paragraph does not affect, and shall not be interpreted*
3 *to rescind or limit, the restriction or suspension of that license*
4 *pursuant to any other law, including subdivision (g) of Section*
5 *12814.6.*

6 (d) A law enforcement officer shall not stop a vehicle for the
7 sole purpose of determining whether the driver is violating
8 subdivision (b).

9 (e) Subdivision (d) does not prohibit a law enforcement officer
10 from stopping a vehicle for a violation of Section 23123 or
11 23123.5.

12 (f) This section does not apply to a person using a wireless
13 telephone or a mobile service device for emergency purposes,
14 including, but not limited to, an emergency call to a law
15 enforcement agency, health care provider, fire department, or other
16 emergency services agency or entity.

17 (g) For the purposes of this section, “electronic wireless
18 communications device” includes, but is not limited to, a broadband
19 personal communication device, specialized mobile radio device,
20 handheld device or laptop computer with mobile data access, pager,
21 and two-way messaging device.

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