

AMENDED IN ASSEMBLY MARCH 13, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2000**

**Introduced by Assembly Member Goldsmith**

*(Coauthors: Assembly Members Ackerman, Boland, Bowler, Caldera, Cunneen, Granlund, Harvey, House, Machado, Margett, Morrissey, Rainey, and Richter)*

*(Coauthors: Senators Ayala and Leslie)*

January 8, 1996

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An act to amend Section 1936 of the Civil Code, to amend Section 53150 of the Government Code, to amend Sections 11836, 11837, 11837.1, 11837.2, and 11837.4 of the Health and Safety Code, to amend Section 670 of the Insurance Code, to amend Sections 191.5, 192, 193.8, 1192.7, 13894.7, and 13894.8 of the Penal Code, and to amend Sections 1803, 1821, 9250.14, 12802.5, 13350, 13352, 13352.5, 13353, 13353.1, 13353.2, 13353.3, 13353.4, 13353.5, 13372, 13557, 13954, 14601.2, 14601.3, 15023, 15300, 15302, 22651, 23103.5, 23136, 23137, 23140, 23152, 23153, 23155, 23157, 23158.2, 23159, 23165, 23166, 23175, 23176, 23182, 23190, 23191, 23192, 23194, 23199, 23201, 23205, 23206.5, 23220, 23222, 23224, 34501.16, 40000.15, 40300.5, 40300.6, and 42009 of, to add Section 454 to, and to repeal Sections 23170, 23171, 23185, 23186, and 23187 of, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2000, as amended, Goldsmith. Vehicles: driving under the influence: arrests: penalties.

(1) Existing law makes it unlawful for any person to drive a vehicle when the person is under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, or when the person has 0.08 percent or more, by weight, of alcohol in his or her blood.

Existing law makes it unlawful for any person to drive a vehicle under the circumstances described above and concurrently do any act forbidden by law, or neglect any duty imposed by law in driving the vehicle, which act or neglect proximately causes bodily injury to any person other than the driver.

Existing law makes it unlawful for any person to drive a vehicle when that person is addicted to the use of any drug, except as specified.

Existing law makes it unlawful for a person to drive a vehicle when the person is under the age of 21 years and has 0.05 percent or more, by weight, of alcohol in his or her blood or when the person is under the age of 21 years and has a blood-alcohol concentration of 0.01 percent or greater, as measured by a preliminary alcohol screening test, as defined.

Existing law specifies that any person who drives a motor vehicle is deemed to have given his or her consent to chemical testing of his or her blood, breath, or urine for the purpose of determining the alcoholic content of his or her blood, and to have given his or her consent to chemical testing of his or her blood or urine for the purpose of determining the drug content of his or her blood, if lawfully arrested for any offense allegedly committed in violation of the provisions specified above.

Existing law specifies that any person under the age of 21 years who drives a motor vehicle is deemed to have given his or her consent to a preliminary alcohol screening test for the purpose of determining the presence of alcohol in the person, if lawfully detained for an alleged violation of the provision specified above relating to persons under the age of 21 years driving with a blood-alcohol concentration of 0.01 percent or greater.

This bill would make the provisions specified above applicable to operating, as well as driving, a vehicle and would



make conforming changes in related provisions of existing law.

*The bill would define “operating a vehicle” for purposes of the Vehicle Code.*

Because the bill would expand the scope of existing crimes, it would impose a state-mandated local program.

(2) Existing law requires that a person be punished by imprisonment in the state prison, or in the county jail for specified terms, and by specified fines, if the person is convicted of a violation of a provision relating to driving a vehicle while under the influence of alcohol or any drug, or both alcohol and any drug, and the offense occurred within 7 years of 3 or more separate violations of certain provisions relating to driving under the influence, if those violations resulted in convictions.

This bill would, instead, remove the time limitation in existing law and would require that the offense have occurred after 2 or more separate violations of the specified provisions, if those violations resulted in convictions.

To the extent that the bill would thereby impose additional duties upon local probation departments, it would create a state-mandated program.

(3) Existing law requires that a person be punished by imprisonment in the state prison for specified terms, and by specified fines, if the person is convicted of a violation of a provision relating to driving under the influence and causing bodily injury to another and the offense occurred within 7 years of 2 or more separate violations of certain provisions relating to driving under the influence and those violations resulted in convictions.

This bill would, instead, remove the time limitation in existing law and would require that the offense have occurred after 1 or more separate violations of the specified provisions, if those violations resulted in convictions.

To the extent that the bill would thereby impose additional duties upon local probation departments, it would create a state-mandated program.

(4) The bill would make conforming changes in related provisions of existing law.



(5) Existing law requires that a person who is convicted of driving a vehicle while under the influence of an alcoholic beverage, any drug, or both, driving with an excessive blood-alcohol concentration, or driving when addicted to any drug be punished by specified imprisonment and fines. Specified punishment enhancements are required if it is pled and proven that a minor under 14 years of age was a passenger in the vehicle at the time of the offense.

This bill would require that the punishment for a conviction of driving a vehicle while under the influence of an alcoholic beverage, any drug, or both, driving with an excessive blood-alcohol concentration, or driving when addicted to any drug, be enhanced by a state prison term of 2, 4, or 6 years if it is pled and proven that a minor less than 15 years of age was a passenger in the vehicle at the time of the offense.

To the extent that the bill would impose additional duties on county probation agencies, it would create a state-mandated local program.

*(6) Existing law requires a peace officer to immediately forward to the Department of Motor Vehicles a sworn report of all information relevant to an enforcement action for a violation of specified provisions relating to driving under the influence, including, among other things, a report of the results of any chemical tests that were conducted on the person or the circumstances constituting a refusal to submit to or complete the chemical testing, as specified.*

*This bill would require the report relating to chemical testing to be unsworn and would state the Legislature's intent to abrogate the holdings of Wheeler v. Department of Motor Vehicles (1994), 34 Cal. App. 4th 228 and Downer v. Zolin (1995), 34 Cal. App. 4th 578.*

*(7) Existing law makes it an infraction for a person under 21 years of age to knowingly drive a vehicle carrying any alcoholic beverages, except as specified, or for that person to be a passenger in a vehicle while knowingly possessing any alcoholic beverage, except as specified.*

*This bill would make those crimes misdemeanors, punishable by specified fines and terms in the county jail. The bill would authorize the removal of the vehicle when an officer serves a notice to appear for a violation of those*



provisions. Because the bill would increase the punishment for an existing crime, it would impose a state-mandated local program.

(8) Existing law authorizes a peace officer to arrest a person without a warrant when the person is involved in a traffic accident or is observed by the peace officer in or about a vehicle that is obstructing a roadway, if the officer has reasonable cause to believe that the person had been driving while under the influence of an alcoholic beverage or any drug, or under the combined influence of an alcoholic beverage and any drug.

This bill would delete the requirement in existing law that the person be involved in a traffic accident or be observed by the peace officer in or about a vehicle that is obstructing a roadway.

~~(7)~~

(9) 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 1936 of the Civil Code is  
2 amended to read:  
3 1936. (a) For the purpose of this section, the  
4 following definitions shall apply:  
5 (1) "Rental company" means any person or entity in  
6 the business of renting passenger vehicles to the public.  
7 (2) "Renter" means any person in any manner  
8 obligated under a contract for the lease or hire of a  
9 passenger vehicle from a rental company for a period of  
10 less than 30 days.  
11 (3) "Authorized driver" means (A) the renter, (B)  
12 the renter's spouse if that person is a licensed driver and  
13 satisfies the rental company's minimum age requirement,



1 (C) the renter’s employer or coworker if they are  
2 engaged in business activity with the renter, are licensed  
3 drivers, and satisfy the rental company’s minimum age  
4 requirement, and (D) any person expressly listed by the  
5 rental company on the renter’s contract as an authorized  
6 driver.

7 (4) “Damage waiver” means a rental company’s  
8 agreement not to hold a renter liable for all or any portion  
9 of any damage or loss related to the rented vehicle, any  
10 loss of use of the rented vehicle, or any storage, impound,  
11 towing, or administrative charges.

12 (5) “Estimated time for replacement” means the  
13 number of hours of labor, or fraction thereof, needed to  
14 replace damaged vehicle parts as set forth in collision  
15 damage estimating guides generally used in the vehicle  
16 repair business and commonly known as “crash books.”

17 (6) “Estimated time for repair” means a good faith  
18 estimate of the reasonable number of hours of labor, or  
19 fraction thereof, needed to repair damaged vehicle parts.

20 (7) “Passenger vehicle” means a passenger vehicle as  
21 defined in Section 465 of the Vehicle Code.

22 (b) Except as limited by subdivision (c), a rental  
23 company and a renter may agree that the renter will be  
24 responsible for no more than all of the following:

25 (1) Physical or mechanical damage to the rented  
26 vehicle up to its fair market value, as determined in the  
27 customary market for the sale of that vehicle, resulting  
28 from collision regardless of the cause of the damage.

29 (2) Loss due to theft of the rented vehicle up to its fair  
30 market value, as determined in the customary market for  
31 the sale of that vehicle, provided that the rental company  
32 establishes by clear and convincing evidence that the  
33 renter or the authorized driver failed to exercise ordinary  
34 care while in possession of the vehicle.

35 (3) Physical damage to the rented vehicle up to its fair  
36 market value, as determined in the customary market for  
37 the sale of that vehicle, resulting from vandalism  
38 occurring after, or in connection with, the theft of the  
39 rented vehicle; however, the renter shall have no liability



1 for any damage due to vandalism if the renter would have  
2 no liability for theft pursuant to paragraph (2).

3 (4) Physical damage to the rented vehicle and loss of  
4 use of the rented vehicle as provided in paragraph (5) up  
5 to a total of five hundred dollars (\$500) resulting from  
6 vandalism unrelated to the theft of the rented vehicle.

7 (5) Loss of use of the rented vehicle if the renter is  
8 liable for damage or loss.

9 (6) Actual charges for towing, storage, and impound  
10 fees paid by the rental company if the renter is liable for  
11 damage or loss.

12 (7) An administrative charge which shall include the  
13 cost of appraisal and all other costs and expenses incident  
14 to the damage, loss, loss of use, repair, or replacement of  
15 the rented vehicle.

16 (c) The total amount of the renter's liability to the  
17 rental company resulting from damage to the rented  
18 vehicle shall not exceed the sum of the following:

19 (1) The estimated cost of parts which the rental  
20 company would have to pay to replace damaged vehicle  
21 parts. All discounts and price reductions or adjustments  
22 that are or will be received by the rental company shall  
23 be subtracted from the estimate to the extent not already  
24 incorporated in the estimate or otherwise promptly  
25 credited or refunded to the renter.

26 (2) The estimated cost of labor to replace damaged  
27 vehicle parts which shall not exceed the product of (A)  
28 the rate for labor usually paid by the rental company to  
29 replace vehicle parts of the type that were damaged and  
30 (B) the estimated time for replacement. All discounts  
31 and price reductions or adjustments that are or will be  
32 received by the rental company shall be subtracted from  
33 the estimate to the extent not already incorporated in the  
34 estimate or otherwise promptly credited or refunded to  
35 the renter.

36 (3) (A) The estimated cost of labor to repair damaged  
37 vehicle parts which shall not exceed the lesser of the  
38 following:



1 (i) The product of the rate for labor usually paid by the  
2 rental company to repair vehicle parts of the type that  
3 were damaged and the estimated time for repair.

4 (ii) The sum of the estimated labor and parts costs  
5 determined under paragraphs (1) and (2) to replace the  
6 same vehicle parts.

7 (B) All discounts and price reductions or adjustments  
8 that are or will be received by the rental company shall  
9 be subtracted from the estimate to the extent not already  
10 incorporated in the estimate or otherwise promptly  
11 credited or refunded to the renter.

12 (4) Except as provided in paragraph (5), the loss of use  
13 of the rented vehicle which shall not exceed the product  
14 of (A) the rental rate stated in the renter's contract,  
15 excluding all optional charges, and (B) the total of the  
16 estimated time for replacement and the estimated time  
17 for repair. For the purpose of converting the estimated  
18 time for repair into the same unit of time in which the  
19 rental rate is expressed, a day shall be deemed to consist  
20 of eight hours.

21 (5) Under any of the circumstances described in  
22 subdivision (f), the rental company's loss of use of the  
23 rented vehicle shall not exceed the product of (A) the  
24 rental rate stated in the renter's contract, excluding all  
25 optional charges, and (B) the period from the date of the  
26 accident to the date the vehicle is ready to be returned  
27 to rental service. This paragraph applies only if the rental  
28 company uses its best efforts to effect repairs and return  
29 the vehicle to rental service as soon as practicable.

30 (6) Actual charges for towing, storage, and impound  
31 fees paid by the rental company.

32 (7) The administrative charge described in paragraph  
33 (7) of subdivision (b) shall not exceed (A) fifty dollars  
34 (\$50) if the total estimated cost for parts and labor is more  
35 than one hundred dollars (\$100) up to and including five  
36 hundred dollars (\$500), (B) one hundred dollars (\$100)  
37 if the total estimated cost for parts and labor exceeds five  
38 hundred dollars (\$500) up to and including one thousand  
39 five hundred dollars (\$1,500), and (C) one hundred fifty  
40 dollars (\$150) if the total estimated cost for parts and



1 labor exceeds one thousand five hundred dollars (\$1,500).  
2 No administrative charge shall be imposed if the total  
3 estimated cost of parts and labor is one hundred dollars  
4 (\$100) or less.

5 (d) (1) The total amount of an authorized driver's  
6 liability to the rental company, if any, for damage  
7 occurring during the authorized driver's operation of the  
8 rented vehicle shall not exceed the amount of the renter's  
9 liability under subdivision (c).

10 (2) A rental company shall not recover from the renter  
11 and another authorized driver an amount exceeding the  
12 renter's liability under subdivision (c).

13 (3) A rental company shall not recover from the renter  
14 or other authorized driver for any item described in  
15 subdivision (b) to the extent the rental company obtains  
16 recovery from any other person.

17 (4) This section applies only to the maximum liability  
18 of a renter or other authorized driver to the rental  
19 company resulting from damage to the rented vehicle  
20 and not to the liability of any other person.

21 (e) (1) Except as provided in subdivisions (f) and (g),  
22 every damage waiver shall provide or, if not expressly  
23 stated in writing, shall be deemed to provide that the  
24 renter has no liability for any damage, loss, loss of use, or  
25 any cost or expense incident thereto.

26 (2) Except as provided in subdivisions (f) and (g),  
27 every limitation, exception, or exclusion to any damage  
28 waiver is void and unenforceable.

29 (f) A rental company may provide in the rental  
30 contract that a damage waiver does not apply under any  
31 of the following circumstances:

32 (1) Damage or loss results from an authorized driver's  
33 (A) intentional, willful, wanton, or reckless conduct, (B)  
34 driving or operation of the vehicle under the influence of  
35 drugs or alcohol in violation of Section 23152 of the  
36 Vehicle Code, (C) towing or pushing anything, or (D)  
37 operation of the vehicle on an unpaved road if the  
38 damage or loss is a direct result of the road or driving  
39 conditions.



1 (2) Damage or loss occurs while the vehicle is (A) used  
2 for commercial hire, (B) used in connection with conduct  
3 that could be properly charged as a felony, (C) involved  
4 in a speed test or contest or in driver training activity, (D)  
5 operated by a person other than an authorized driver, or  
6 (E) operated outside of the United States.

7 (3) Any authorized driver (A) provided fraudulent  
8 information to the rental company, or (B) provided false  
9 information and the rental company would not have  
10 rented the vehicle if it had instead received true  
11 information.

12 (g) No damage waiver shall apply to any loss due to  
13 theft of the vehicle.

14 (h) (1) A rental company which offers or provides a  
15 damage waiver for any consideration in addition to the  
16 rental rate shall clearly and conspicuously disclose the  
17 following information in the rental contract or holder in  
18 which the contract is placed and, also, in signs posted at  
19 the place, such as the counter, where the renter signs the  
20 rental contract: (A) the nature of the renter's liability,  
21 e.g., liability for all collision damage regardless of cause,  
22 (B) the extent of the renter's liability, e.g., liability for  
23 damage or loss up to a specified amount, (C) the renter's  
24 personal insurance policy may provide coverage for all or  
25 a portion of the renter's potential liability, (D) the renter  
26 should consult with his or her insurer to determine the  
27 scope of insurance coverage, (E) the renter may  
28 purchase an optional damage waiver to cover all liability,  
29 except liability for loss due to theft pursuant to  
30 subdivision (g), subject to whatever exceptions the rental  
31 company expressly lists that are permitted under  
32 subdivision (f), and (F) the charge for the damage  
33 waiver.

34 (2) The following is an example, for purposes of  
35 illustration and not limitation, of a notice fulfilling the  
36 requirements of paragraph (1) for a rental company that  
37 imposes liability on the renter for collision damage to the  
38 full value of the vehicle:

39  
40 NOTICE ABOUT YOUR FINANCIAL



1 RESPONSIBILITY AND OPTIONAL DAMAGE  
2 WAIVER

3  
4 You are responsible for all collision damage to the  
5 rented vehicle even if someone else caused it or the cause  
6 is unknown. You are responsible for the cost of repair up  
7 to the value of the vehicle, loss of use, and towing, storage,  
8 and impound fees.

9 Your own insurance may cover all or part of your  
10 financial responsibility for the rented vehicle. You should  
11 check with your insurance company to find out about  
12 your coverage.

13 The rental company will not hold you responsible if you  
14 buy damage waiver, except with regard to loss due to  
15 theft. But, damage waiver will not protect you if (list  
16 exceptions).

17 The cost of optional damage waiver is \$\_\_\_\_\_ for  
18 every (day or week).

19 (i) Notwithstanding any other provision of law, a  
20 rental company may sell damage waiver but shall not  
21 charge more than nine dollars (\$9) per full or partial  
22 24-hour rental day for damage waiver.

23 (j) A rental company which disseminates in this state  
24 an advertisement containing a rental rate shall include in  
25 that advertisement a clearly readable statement of the  
26 charge for damage waiver and a statement that damage  
27 waiver is optional.

28 (k) (1) A rental company shall not require the  
29 purchase of a damage waiver, optional insurance, or any  
30 other optional good or service.

31 (2) A rental company shall not engage in any unfair,  
32 deceptive, or coercive conduct to induce a renter to  
33 purchase damage waiver, optional insurance, or any  
34 other optional good or service, including conduct such as,  
35 but not limited to, refusing to honor the renter's  
36 reservation, limiting the availability of vehicles, requiring  
37 a deposit, or debiting or blocking the renter's credit card  
38 account for a sum equivalent to a deposit if the renter  
39 declines to purchase damage waiver, optional insurance,  
40 or any other optional good or service.



1 (l) (1) A rental company shall not seek to recover any  
2 portion of any claim arising out of damage to, or loss of,  
3 the rented vehicle by processing a credit card charge or  
4 causing any debit or block to be placed on the renter's  
5 credit card account.

6 (2) A rental company shall not engage in any unfair,  
7 deceptive, or coercive tactics in attempting to recover or  
8 in recovering on any claim arising out of damage to, or loss  
9 of, the rented vehicle.

10 (m) (1) A rental company shall only advertise, quote,  
11 and charge a rental rate that includes the entire amount  
12 except taxes and a mileage charge, if any, which a renter  
13 must pay to hire or lease the vehicle for the period of time  
14 to which the rental rate applies. A rental company shall  
15 not charge in addition to the rental rate, taxes, and  
16 mileage charge, if any, any fee which must be paid by the  
17 renter as a condition of hiring or leasing the vehicle, such  
18 as, but not limited to, required fuel or airport surcharges,  
19 nor any fee for transporting the renter to the location  
20 where the rented vehicle will be delivered to the renter.

21 (2) In addition to the rental rate, taxes, and mileage  
22 charge, if any, a rental company may charge for an item  
23 or service provided in connection with a particular rental  
24 transaction if the renter could have avoided incurring the  
25 charge by choosing not to obtain or utilize the optional  
26 item or service. Items and services for which the rental  
27 company may impose an additional charge, include, but  
28 are not limited to, optional insurance and accessories  
29 requested by the renter, service charges incident to the  
30 renter's optional return of the vehicle to a location other  
31 than the location where the vehicle was hired or leased,  
32 and charges for refueling the vehicle at the conclusion of  
33 the rental transaction in the event the renter did not  
34 return the vehicle with as much fuel as was in the fuel  
35 tank at the beginning of the rental. A rental company also  
36 may impose an additional charge based on reasonable age  
37 criteria established by the rental company.

38 (3) A rental company shall not charge any fee for  
39 authorized drivers in addition to the rental charge for an  
40 individual renter.



1 (4) If a rental company states a rental rate in print  
2 advertisement or in a telephonic, in-person, or  
3 computer-transmitted quotation, the rental company  
4 shall clearly disclose in that advertisement or quotation  
5 the terms of any mileage conditions relating to the  
6 advertised or quoted rental rate, including, but not  
7 limited to, to the extent applicable, the amount of  
8 mileage and gas charges, the number of miles for which  
9 no charges will be imposed, and a description of  
10 geographic driving limitations within the United States  
11 and Canada.

12 (5) If a rental company delivers a vehicle to a renter  
13 at a location other than the location where the rental  
14 company normally carries on its business, the rental  
15 company shall not charge the renter any amount for the  
16 rental for the period before the delivery of the vehicle. If  
17 a rental company picks up a rented vehicle from a renter  
18 at a location other than the location where the rental  
19 company normally carries on its business, the rental  
20 company shall not charge the renter any amount for the  
21 rental for the period after the renter notifies the rental  
22 company to pick up the vehicle.

23 (n) A renter may bring an action against a rental  
24 company for the recovery of damages and appropriate  
25 equitable relief for a violation of this section. The  
26 prevailing party shall be entitled to recover reasonable  
27 attorney's fees and costs.

28 (o) A rental company that brings an action against a  
29 renter for loss due to theft of the vehicle shall bring the  
30 action in the county in which the renter resides or if the  
31 renter is not a resident of this state in the jurisdiction in  
32 which the renter resides.

33 (p) Any waiver of any of the provisions of this section  
34 shall be void and unenforceable as contrary to public  
35 policy.

36 SEC. 2. Section 53150 of the Government Code is  
37 amended to read:

38 53150. Any person who is under the influence of an  
39 alcoholic beverage or any drug, or the combined  
40 influence of an alcoholic beverage and any drug, whose



1 negligent driving or operation of a motor vehicle caused  
2 by that influence proximately causes any incident  
3 resulting in an appropriate emergency response, and any  
4 person whose intentionally wrongful conduct  
5 proximately causes any incident resulting in an  
6 appropriate emergency response, is liable for the expense  
7 of an emergency response by a public agency to the  
8 incident.

9 SEC. 3. Section 11836 of the Health and Safety Code  
10 is amended to read:

11 11836. (a) The department shall have the sole  
12 authority to issue, deny, suspend, or revoke the license of  
13 a driving-under-the-influence program. As used in this  
14 chapter “program” means any firm, partnership,  
15 association, corporation, local governmental entity,  
16 agency or place that has been initially recommended by  
17 the county board of supervisors and that is subsequently  
18 licensed by the department to provide alcohol or drug  
19 recovery services to either a (1) person whose license to  
20 drive has been administratively suspended or revoked  
21 for, or who is convicted of, a violation of Section 23152 or  
22 23153 of the Vehicle Code, and admitted to a program  
23 pursuant to Section 13352, 13353.4, 23161, 23166, 23176,  
24 23181, or 23191 of the Vehicle Code, or (2) a person who  
25 is convicted of a violation of subdivision (b), (c), (d), or  
26 (e) of Section 655 of the Harbors and Navigation Code,  
27 or of Section 655.4 of that code, and admitted to the  
28 program pursuant to Section 668 of that code.

29 (b) If a firm, partnership, corporation, association,  
30 local government entity, agency, or place has, or is  
31 applying for, more than one license, the department shall  
32 treat each licensed program, or each program seeking  
33 licensure, as belonging to a separate firm, partnership,  
34 corporation, association, local government entity,  
35 agency, or place for the purposes of this chapter.

36 SEC. 4. Section 11837 of the Health and Safety Code  
37 is amended to read:

38 11837. (a) Pursuant to the provisions of law relating  
39 to suspension of a person’s privilege to operate a motor  
40 vehicle upon conviction for driving or operating a vehicle



1 while under the influence of any alcoholic beverage or  
2 drug, or under the combined influence of any alcoholic  
3 beverage and any drug, as set forth in paragraph (3) of  
4 subdivision (a) of Section 13352 of the Vehicle Code, the  
5 Department of Motor Vehicles shall restrict the driving  
6 privilege pursuant to Section 13352.5 of the Vehicle Code,  
7 if the court has notified the department pursuant to  
8 Section 13352.5 of the Vehicle Code that the person  
9 convicted of that offense has consented to participate for  
10 at least 18 months in a program designed to offer alcohol  
11 and other drug education and counseling services that is  
12 licensed pursuant to this chapter.

13 (b) In determining whether to refer a person, who is  
14 ordered to participate in a program pursuant to Section  
15 668 of the Harbors and Navigation Code, in a licensed  
16 alcohol and other drug education and counseling services  
17 program pursuant to Section 23161 of the Vehicle Code,  
18 or, pursuant to Section 23166, 23176, 23181, or 23191 of the  
19 Vehicle Code, in a licensed 18-month or 30-month  
20 program, the court may consider any relevant  
21 information about the person made available pursuant to  
22 a presentence investigation, which is permitted but not  
23 required under Section 23205 of the Vehicle Code, or  
24 other screening procedure. That information shall not be  
25 furnished, however, by any person who also provides  
26 services in a privately operated, licensed program or who  
27 has any direct interest in a privately operated, licensed  
28 program. In addition, the court shall obtain from the  
29 Department of Motor Vehicles a copy of the person's  
30 driving record to determine whether the person is  
31 eligible to participate in a licensed 18-month or 30-month  
32 program pursuant to this chapter.

33 (c) The court may, as a condition of probation  
34 pursuant to Section 23161 or 23181 of the Vehicle Code,  
35 refer a first offender to a licensed program to attend all  
36 of the education, group counseling, and interview  
37 sessions described in this chapter if ordered to participate  
38 in six, nine, or 12 months of program activities.  
39 Notwithstanding Section 13352.5 of the Vehicle Code, if  
40 a first offender is referred to a licensed program pursuant



1 to Section 23161 or 23181 of the Vehicle Code, that person  
2 may participate in a program if convicted of another  
3 offense punishable under Section 23165 of the Vehicle  
4 Code.

5 (d) The court may, subject to Section 11837.2, and as  
6 a condition of probation, refer a person to a licensed  
7 program, even though the person’s privilege to operate  
8 a motor vehicle is restricted, suspended, or revoked. An  
9 18-month program described in Section 23166 of the  
10 Vehicle Code or a 30-month program described in  
11 Section 23176, or 23191 of the Vehicle Code may include  
12 treatment of family members and significant other  
13 persons related to the convicted person with the consent  
14 of those family members and others as described in this  
15 chapter, if there is no increase in the costs of the program  
16 to the convicted person.

17 SEC. 5. Section 11837.1 of the Health and Safety Code  
18 is amended to read:

19 11837.1. (a) In utilizing any program defined in  
20 subdivision (e) of Section 11837, the court may require  
21 periodic reports concerning the performance of each  
22 person referred to and participating in a program. The  
23 program shall provide the court, the Department of  
24 Motor Vehicles, and the person participating in a  
25 program, with an immediate report of any failure of the  
26 person to comply with the program’s rules and policies.

27 (b) (1) If, at any time after entry into or while  
28 participating in a program, a participant who is referred  
29 to an 18-month program described in Section 23166 or  
30 23186 of the Vehicle Code or a 30-month program  
31 described in Section 23176 or 23191 of the Vehicle Code,  
32 fails to comply with the rules and policies of the program,  
33 and that fact is reported, the Department of Motor  
34 Vehicles shall revoke or suspend the privilege of that  
35 person to operate a motor vehicle for the period  
36 prescribed by law in accordance with Section 13352.5 of  
37 the Vehicle Code, except as otherwise provided in this  
38 section. The Department of Motor Vehicles shall notify  
39 the person and the court of its intended action and shall  
40 inform the person of the opportunity to be reinstated in



1 the program and to avoid suspension of the driving  
2 privilege.

3 (2) Notwithstanding paragraph (1), the Department  
4 of Motor Vehicles shall not suspend the driving privilege  
5 pursuant to paragraph (1) if the court, upon the petition  
6 of the person, determines that the person should be  
7 reinstated in the 18-month or 30-month program. The  
8 determination by the court shall be made within 45 days  
9 of the notice from the department of the intended action  
10 or the additional time, not to exceed an additional 45 days,  
11 for the determination as is required, ordered, and  
12 transmitted to the Department of Motor Vehicles by the  
13 court, which additional time is not caused by any action  
14 or failure to act by the person. Upon timely presentation  
15 by the person to the Department of Motor Vehicles of  
16 evidence satisfactory to the Department of Motor  
17 Vehicles that the court of jurisdiction has consented to the  
18 person's reinstatement in the program and that the  
19 person is currently participating in the program, the  
20 Department of Motor Vehicles shall continue in effect the  
21 restriction of the driving privilege prescribed by Section  
22 13352.5 of the Vehicle Code. However, if the person has  
23 previously been reinstated in the program on one or more  
24 prior occasions, the department shall suspend or revoke  
25 the driving privilege for the time prescribed in paragraph  
26 (3) of subdivision (a) of Section 13352 of the Vehicle  
27 Code. If the court fails to grant the person's petition for  
28 reinstatement in the program, the court shall suspend the  
29 person's driving privilege until the time the person's  
30 driving privilege is suspended or revoked by the  
31 Department of Motor Vehicles pursuant to subdivision  
32 (d) of Section 13352.5 of the Vehicle Code.

33 (c) If, at any time after referral to or while  
34 participating in a program, a participant who is referred  
35 to an alcohol or drug education and counseling program  
36 pursuant to Section 23161 or 23181 of the Vehicle Code,  
37 to an 18-month program pursuant to Section 23166 of the  
38 Vehicle Code, or to a 30-month program pursuant to  
39 Section 23176 or 23191 of the Vehicle Code, refuses, for  
40 any reason, to consent to a chemical test that he or she is



1 required to submit to pursuant to Section 23157 of the  
2 Vehicle Code, his or her participation in the program  
3 shall be terminated and, the Department of Motor  
4 Vehicles shall immediately suspend or revoke his or her  
5 privilege to operate a motor vehicle for the period  
6 prescribed in Section 13352 of the Vehicle Code,  
7 according to the offense for which he or she was  
8 convicted immediately prior to referral to the program.  
9 The period of suspension or revocation shall be in  
10 addition to the period of suspension imposed by the  
11 Department of Motor Vehicles pursuant to Section 13353  
12 of the Vehicle Code.

13 (d) If the department withdraws the license of a  
14 program, the department shall immediately notify the  
15 Department of Motor Vehicles of those persons who do  
16 not commence participation in a licensed program within  
17 21 days from the date of the withdrawal of the license of  
18 the program in which the persons were previously  
19 participating. The Department of Motor Vehicles shall  
20 suspend or revoke, for the period prescribed by law, the  
21 privilege to operate a motor vehicle of each of those  
22 persons referred to an 18-month program pursuant to  
23 Section 23166 of the Vehicle Code or to a 30-month  
24 program pursuant to Section 23176 or 23191 of the Vehicle  
25 Code.

26 SEC. 6. Section 11837.2 of the Health and Safety Code  
27 is amended to read:

28 11837.2. (a) The court may refer persons only to  
29 licensed programs. Subject to these provisions, a person  
30 is eligible to participate in the program if it is operating  
31 in (1) the county where the person is convicted, or (2)  
32 the county where the person resides, or (3) a county that  
33 has an agreement with such person's county of residence  
34 pursuant to Section 11838, or (4) a county to which a  
35 person may request transfer pursuant to subdivision (d).

36 If a person granted probation under Section 23166 of  
37 the Vehicle Code cannot be referred to a licensed  
38 18-month program pursuant to this section, Section  
39 13352.5 of the Vehicle Code does not apply.



1 (b) If a person has consented to participate in a  
2 licensed program and the county where the person is  
3 convicted is the same county in which the person resides,  
4 the court may order the person to participate in a licensed  
5 program within that county, or, if that county does not  
6 have a licensed program, the court may order that person  
7 to participate in a licensed program within another  
8 county, pursuant to Section 11838.

9 (c) If a person has consented to participate in a  
10 licensed program in the county in which that person  
11 resides or in a county in which the person's county of  
12 residence has an agreement pursuant to Section 11837,  
13 and the county where the person is convicted is not the  
14 county where the person resides, and if the court grants  
15 the person summary probation, the court may order the  
16 person to participate in a licensed program in that county.  
17 In lieu of summary probation, the court may utilize the  
18 probation officer to implement the orders of the court. If  
19 the county in which the person resides does not have a  
20 licensed program or an agreement with another county  
21 pursuant to Section 11838 and the person consents, the  
22 court may order the person to participate in a licensed  
23 program within the county where that person is  
24 convicted or in a county with which the county has an  
25 agreement pursuant to Section 11838.

26 (d) Except as otherwise provided in subdivision (e),  
27 subsequent to a person's commencement of participation  
28 in a program, the person may request transfer to another  
29 licensed program (1) in the same county in which the  
30 person has commenced participation in the program,  
31 upon approval of that county's alcohol program  
32 administrator, or (2) in a county other than the county in  
33 which the person has commenced participation in the  
34 program, upon approval of the alcohol program  
35 administrator of the county in which the person is  
36 participating and the county to which the person is  
37 requesting transfer.

38 (e) Subdivision (d) does not apply (1) if the court has  
39 ordered the person to participate in a specific licensed  
40 program, unless the court orders the transfer or, (2) if the



1 person is under formal probation, unless the probation  
2 officer consents to the transfer. The department shall  
3 establish reporting forms and procedures to ensure that  
4 the court receives notice of any program transfer  
5 pursuant to this subdivision or subdivision (d).

6 (f) Jurisdiction of all postconviction matters arising  
7 pursuant to this section may be retained by the court of  
8 conviction.

9 (g) The department, in cooperation with the  
10 Department of Motor Vehicles and the alcohol program  
11 administrators, shall establish procedures to ensure the  
12 effective implementation of this section.

13 SEC. 7. Section 11837.4 of the Health and Safety Code  
14 is amended to read:

15 11837.4. (a) No program, regardless of how it is  
16 funded, may be licensed unless all of the requirements of  
17 this chapter and of the regulations adopted pursuant to  
18 this chapter have been met.

19 (b) Each licensed program shall include, but not be  
20 limited to, the following:

21 (1) For the alcohol or drug education and counseling  
22 services programs specified in subdivision (b) of Section  
23 11837, each program shall provide for close and regular  
24 face-to-face interviews. For the 18-month programs  
25 specified in subdivision (a) of Section 11837, each  
26 program shall provide for close and regular supervision of  
27 the person, including face-to-face interviews at least once  
28 every other calendar week, regarding the person's  
29 progress in the program for the first 12 months of the  
30 program and shall provide only community reentry  
31 supervision during the final six months of the program. In  
32 the last six months of the 18-month program, the provider  
33 shall monitor the participant's community reentry  
34 activity with self-help groups, employment, family, and  
35 other areas of self-improvement. Unless otherwise  
36 ordered by the court, the provider's monitoring services  
37 is limited to not more than six hours. For the 30-month  
38 programs specified in subdivision (b) of Section 23176 of  
39 the Vehicle Code and subdivision (b) of Section 23191 of  
40 that code, each program shall provide for close and



1 regular supervision of the person, including regular,  
2 scheduled face-to-face interviews over the course of 30  
3 months regarding the person's progress in the program  
4 and recovery from problem drinking, alcoholism,  
5 chemical dependency, or polydrug abuse, as prescribed  
6 by regulations of the department. The interviews in any  
7 of those programs shall be conducted individually with  
8 each person being supervised and shall occur at times  
9 other than when the person is participating in any group  
10 or other activities of the program. No program activity in  
11 which the person is participating shall be interrupted in  
12 order to conduct the individual interviews.

13 (2) The department shall approve all fee schedules for  
14 the programs and shall require that each program be  
15 self-supporting from the participants' fees and that each  
16 program provide for the payment of the costs of the  
17 program by participants at times and in amounts  
18 commensurate with their ability to pay in order to enable  
19 these persons to participate. Each program shall make  
20 provisions for persons who can successfully document  
21 current inability to pay the fees. Only the department  
22 may establish the criteria and procedures for  
23 determining a participant's ability to pay. The  
24 department shall ensure that the fees are set at amounts  
25 which will enable programs to provide adequately for the  
26 immediate and long-term continuation of services  
27 required pursuant to this chapter. The fees shall be used  
28 only for the purposes set forth in this chapter, except that  
29 any profit or surplus, that does not exceed the maximum  
30 level established by the department, may be utilized for  
31 any purposes allowable under any other provisions of law.  
32 In its regulations, the department shall define, for the  
33 purposes of this paragraph, taking into account prudent  
34 accounting, management, and business practices and  
35 procedures, the terms "profits" and "surplus." The  
36 department shall fairly construe these provisions so as not  
37 to jeopardize fiscal integrity of the programs. The  
38 department may not license any program if the  
39 department finds that any element of the administration



1 of the program does not assure the fiscal integrity of the  
2 program.

3 (3) The licensed programs described in paragraph (1)  
4 shall include a variety of treatment services for problem  
5 drinkers, alcoholics, chemical dependents, and polydrug  
6 abusers or shall have the capability of referring the  
7 persons to, and regularly and closely supervising the  
8 persons while in, any appropriate medical, hospital, or  
9 licensed residential treatment services or self-help groups  
10 for their problem drinking, alcoholism, chemical  
11 dependency, or polydrug abuse problem. In addition to  
12 the requirements of paragraph (1), the department shall  
13 prescribe in its regulations what other services the  
14 program shall provide, at a minimum, in the treatment of  
15 participants, which services may include lectures, classes,  
16 group discussions, group counseling, or individual  
17 counseling in addition to the interviews required by  
18 paragraph (1), or any combination thereof. However,  
19 any group discussion or counseling activity, other than  
20 classes or lectures, shall be regularly scheduled to consist  
21 of not more than 15 persons, except that they may, on an  
22 emergency basis, exceed 15, but not more than 17,  
23 persons, at any one meeting. At no time shall there be  
24 more than 17 persons in attendance at any one meeting.  
25 For the 30-month programs specified in subdivision (b)  
26 of Section 23176 of the Vehicle Code and subdivision (b)  
27 of Section 23191 of that code, each licensed program shall  
28 include a method by which each participant shall  
29 maintain a compendium of probative evidence, as  
30 prescribed in the regulations of the department, on a  
31 trimonthly basis demonstrating a performance of  
32 voluntary community service by the participant,  
33 including, but not limited to, the prevention of drinking  
34 and driving, the promotion of safe driving, and  
35 responsible attitudes toward the use of chemicals of any  
36 kind, for not less than 120 hours and not more than 300  
37 hours, as determined by the court, with one-half of that  
38 time to be served during the initial 18 months of program  
39 participation and one-half of that time to be served in the  
40 final 12 months. In determining whether or not the



1 participant has met the objectives of the program, the  
2 compendium of evidence shall also include, and the court  
3 shall consider, the participant's demonstration of  
4 significant improvement in any of the following areas of  
5 personal achievement:

6 (A) Significant improvement in occupational  
7 performance, including efforts to obtain gainful  
8 employment.

9 (B) Significant improvement in physical and mental  
10 health.

11 (C) Significant improvement in family relations,  
12 including financial obligations.

13 (D) Significant improvement in financial affairs and  
14 economic stability.

15 The compendium of evidence shall be maintained by  
16 the participant for review by the program, court,  
17 probation officer, or other appropriate governmental  
18 agency. The program officials, unless prohibited by the  
19 referring court, shall make provisions for a participant to  
20 voluntarily enter, using the participant's own resources,  
21 a licensed chemical dependency recovery hospital or  
22 residential treatment program which has a valid license  
23 issued by the State of California to provide alcohol or drug  
24 services, and to receive three weeks of program  
25 participation credit for each week of that treatment, not  
26 to exceed 12 weeks of program participation credit, but  
27 only if the treatment is at least two weeks in duration. The  
28 program shall document probative evidence of this  
29 hospital or residential care treatment in the participant's  
30 program file.

31 (4) In order to assure program effectiveness, the  
32 department shall require, whenever appropriate, that  
33 the licensed program provides services to ethnic  
34 minorities, women, youth, or any other group that has  
35 particular needs relating to the program.

36 (5) The goal of each program shall be to assist persons  
37 participating in the program to recognize their chemical  
38 dependency and to assist them in their recovery.

39 (6) Each program shall establish a method by which  
40 the court, the Department of Motor Vehicles, and the



1 person are notified in a timely manner of the person's  
2 failure to comply with the program's rules and  
3 regulations.

4 (c) No program may be licensed unless the county  
5 complies with the requirements of subdivision (b) of  
6 Section 11812. The provider of a program that offers an  
7 alcohol or drug education and counseling services  
8 program, an 18-month program, or a 30-month program  
9 or any or all of those programs described in this section  
10 shall be required to obtain only one license. The  
11 department's regulations shall specify the requirements  
12 for the establishment of each program. The license issued  
13 by the department shall identify the program or  
14 programs licensed to operate.

15 (d) Departmental approval for the establishment of a  
16 30-month program by a licensed 18-month program is  
17 contingent upon approval by the county alcohol program  
18 administrator, based upon confirmation that the program  
19 applicant is capable of providing the service and that the  
20 fiscal integrity of the program applicant will not be  
21 jeopardized by the operation of the program.

22 The court shall refer a person to a 30-month treatment  
23 program only if a 30-month program exists or is provided  
24 for in the jurisdiction of the court.

25 (e) A county or program shall not prescribe additional  
26 program requirements unless the requirements are  
27 specifically approved by the department.

28 (f) The department may license a program on a  
29 provisional basis.

30 SEC. 8. Section 670 of the Insurance Code is amended  
31 to read:

32 670. (a) No admitted insurer licensed to issue motor  
33 vehicle liability policies, as defined in Section 16450 of the  
34 Vehicle Code, shall cancel, or refuse to renew, a motor  
35 vehicle liability insurance policy covering drivers hired to  
36 drive by a commercial business establishment nor  
37 execute the agreement specified in paragraph (1) of  
38 subdivision (d) of Section 11580.1 with respect to those  
39 drivers for the reason that those drivers have been  
40 convicted of violations of the Vehicle Code or the traffic



1 laws of any subdivision of the state which were  
2 committed while operating private passenger vehicles  
3 not owned or leased by their employer.

4 (b) This section does not apply to any drivers  
5 convicted of any of the following:

6 (1) Homicide or assault arising out of the operation of  
7 a private passenger motor vehicle.

8 (2) A violation while operating a private passenger  
9 motor vehicle of any of the following sections or section  
10 subdivisions of the Vehicle Code:

11 (A) Subdivision (a) of Section 14601.

12 (B) Subdivision (a) of Section 14601.1.

13 (C) Subdivision (a) of Section 14601.2.

14 (D) Section 20001 or 20002.

15 (E) Subdivision (a) of Section 20008.

16 (F) Section 23104.

17 (G) Subdivision (c) of Section 23152.

18 (H) Section 23153.

19 (3) A violation, while operating a private passenger  
20 motor vehicle, of subdivision (a) or (b) of Section 23152  
21 of the Vehicle Code punishable under Section 23165 or  
22 23175 of the Vehicle Code.

23 SEC. 9. Section 191.5 of the Penal Code is amended to  
24 read:

25 191.5. (a) Gross vehicular manslaughter while  
26 intoxicated is the unlawful killing of a human being  
27 without malice aforethought, in the driving or operation  
28 of a vehicle, where the driving or operation was in  
29 violation of Section 23140, 23152, or 23153 of the Vehicle  
30 Code, and the killing was either the proximate result of  
31 the commission of an unlawful act, not amounting to a  
32 felony, and with gross negligence, or the proximate result  
33 of the commission of a lawful act which might produce  
34 death, in an unlawful manner, and with gross negligence.

35 (b) Gross vehicular manslaughter while intoxicated  
36 also includes operating a vessel in violation of subdivision  
37 (b), (c), (d), (e), or (f) of Section 655 of the Harbors and  
38 Navigation Code, and in the commission of an unlawful  
39 act, not amounting to felony, and with gross negligence;  
40 or operating a vessel in violation of subdivision (b), (c),



1 (d), (e), or (f) of Section 655 of the Harbors and  
2 Navigation Code, and in the commission of a lawful act  
3 which might produce death, in an unlawful manner, and  
4 with gross negligence.

5 (c) Gross vehicular manslaughter while intoxicated is  
6 punishable by imprisonment in the state prison for 4, 6,  
7 or 10 years.

8 (d) This section shall not be construed as prohibiting  
9 or precluding a charge of murder under Section 188 upon  
10 facts exhibiting wantonness and a conscious disregard for  
11 life to support a finding of implied malice, or upon facts  
12 showing malice consistent with the holding of the  
13 California Supreme Court in *People v. Watson*, 30 Cal. 3d  
14 290.

15 (e) This section shall not be construed as making any  
16 homicide in the driving or operation of a vehicle or the  
17 operation of a vessel punishable which is not a proximate  
18 result of the commission of an unlawful act, not  
19 amounting to felony, or of the commission of a lawful act  
20 which might produce death, in an unlawful manner.

21 SEC. 10. Section 192 of the Penal Code is amended to  
22 read:

23 192. Manslaughter is the unlawful killing of a human  
24 being without malice. It is of three kinds:

25 (a) Voluntary—upon a sudden quarrel or heat of  
26 passion.

27 (b) Involuntary—in the commission of an unlawful  
28 act, not amounting to felony; or in the commission of a  
29 lawful act which might produce death, in an unlawful  
30 manner, or without due caution and circumspection. This  
31 subdivision shall not apply to acts committed in the  
32 driving of a vehicle.

33 (c) Vehicular—

34 (1) Except as provided in Section 191.5, driving or  
35 operating a vehicle in the commission of an unlawful act,  
36 not amounting to felony, and with gross negligence; or  
37 driving or operating a vehicle in the commission of a  
38 lawful act which might produce death, in an unlawful  
39 manner, and with gross negligence.



1 (2) Except as provided in paragraph (3), driving a or  
2 operating vehicle in the commission of an unlawful act,  
3 not amounting to felony, but without gross negligence; or  
4 driving or operating a vehicle in the commission of a  
5 lawful act which might produce death, in an unlawful  
6 manner, but without gross negligence.

7 (3) Driving or operating a vehicle in violation of  
8 Section 23140, 23152, or 23153 of the Vehicle Code and in  
9 the commission of an unlawful act, not amounting to  
10 felony, but without gross negligence; or driving or  
11 operating a vehicle in violation of Section 23140, 23152, or  
12 23153 of the Vehicle Code and in the commission of a  
13 lawful act which might produce death, in an unlawful  
14 manner, but without gross negligence.

15 This section shall not be construed as making any  
16 homicide in the driving or operating of a vehicle  
17 punishable which is not a proximate result of the  
18 commission of an unlawful act, not amounting to felony,  
19 or of the commission of a lawful act which might produce  
20 death, in an unlawful manner.

21 “Gross negligence,” as used in this section, shall not be  
22 construed as prohibiting or precluding a charge of  
23 murder under Section 188 upon facts exhibiting  
24 wantonness and a conscious disregard for life to support  
25 a finding of implied malice, or upon facts showing malice,  
26 consistent with the holding of the California Supreme  
27 Court in *People v. Watson*, 30 Cal. 3d 290.

28 SEC. 11. Section 193.8 of the Penal Code is amended  
29 to read:

30 193.8. (a) It is unlawful for any adult who is the  
31 registered owner of a motor vehicle or in possession of a  
32 motor vehicle to relinquish possession of the vehicle to a  
33 minor for the purpose of driving or operating the vehicle  
34 if the following conditions exist:

35 (1) The adult owner or person in possession of the  
36 vehicle knew or reasonably should have known that the  
37 minor was intoxicated at the time possession was  
38 relinquished.

39 (2) A petition was sustained or the minor was  
40 convicted of a violation of Section 23103 as specified in



1 Section 23103.5, 23140, 23152, or 23153 of the Vehicle Code  
2 or a violation of Section 191.5 or paragraph (3) of  
3 subdivision (c) of Section 192.

4 (3) The minor does not otherwise have a lawful right  
5 to possession of the vehicle.

6 (b) The offense described in subdivision (a) shall not  
7 apply to commercial bailments, motor vehicle leases, or  
8 parking arrangements, whether or not for compensation,  
9 provided by hotels, motels, or food facilities for  
10 customers, guests, or other invitees thereof. For purposes  
11 of this subdivision, hotel and motel shall have the same  
12 meaning as in subdivision (b) of Section 25503.16 of the  
13 Business and Professions Code and food facility shall have  
14 the same meaning as in Section 27521 of the Health and  
15 Safety Code.

16 (c) If any adult is convicted of the offense described in  
17 subdivision (a), that person shall be punished by a fine not  
18 exceeding one thousand dollars (\$1,000), or by  
19 imprisonment in a county jail not exceeding six months,  
20 or by both such fine and imprisonment. Any adult  
21 convicted of the offense described in subdivision (a) shall  
22 not be subject to driver's license suspension or revocation  
23 or attendance at a licensed alcohol or drug education and  
24 counseling program for persons who drive under the  
25 influence.

26 SEC. 12. Section 1192.7 of the Penal Code is amended  
27 to read:

28 1192.7. (a) Plea bargaining in any case in which the  
29 indictment or information charges any serious felony, any  
30 felony in which it is alleged that a firearm was personally  
31 used by the defendant, or any offense of driving or  
32 operating a vehicle while under the influence of alcohol,  
33 drugs, narcotics, or any other intoxicating substance, or  
34 any combination thereof, is prohibited, unless there is  
35 insufficient evidence to prove the people's case, or  
36 testimony of a material witness cannot be obtained, or a  
37 reduction or dismissal would not result in a substantial  
38 change in sentence.

39 (b) As used in this section "plea bargaining" means  
40 any bargaining, negotiation, or discussion between a



1 criminal defendant, or his or her counsel, and a  
2 prosecuting attorney or judge, whereby the defendant  
3 agrees to plead guilty or nolo contendere, in exchange for  
4 any promises, commitments, concessions, assurances, or  
5 consideration by the prosecuting attorney or judge  
6 relating to any charge against the defendant or to the  
7 sentencing of the defendant.

8 (c) As used in this section, “serious felony” means any  
9 of the following:

- 10 (1) Murder or voluntary manslaughter; (2) mayhem;  
11 (3) rape; (4) sodomy by force, violence, duress, menace,  
12 threat of great bodily injury, or fear of immediate and  
13 unlawful bodily injury on the victim or another person;  
14 (5) oral copulation by force, violence, duress, menace,  
15 threat of great bodily injury, or fear of immediate and  
16 unlawful bodily injury on the victim or another person;  
17 (6) lewd or lascivious act on a child under the age of 14  
18 years; (7) any felony punishable by death or  
19 imprisonment in the state prison for life; (8) any other  
20 felony in which the defendant personally inflicts great  
21 bodily injury on any person, other than an accomplice, or  
22 any felony in which the defendant personally uses a  
23 firearm; (9) attempted murder; (10) assault with intent  
24 to commit rape or robbery; (11) assault with a deadly  
25 weapon or instrument on a peace officer; (12) assault by  
26 a life prisoner on a noninmate; (13) assault with a deadly  
27 weapon by an inmate; (14) arson; (15) exploding a  
28 destructive device or any explosive with intent to injure;  
29 (16) exploding a destructive device or any explosive  
30 causing great bodily injury or mayhem; (17) exploding a  
31 destructive device or any explosive with intent to  
32 murder; (18) burglary of an inhabited dwelling house, or  
33 trailer coach as defined by the Vehicle Code, or inhabited  
34 portion of any other building; (19) robbery or bank  
35 robbery; (20) kidnapping; (21) holding of a hostage by a  
36 person confined in a state prison; (22) attempt to commit  
37 a felony punishable by death or imprisonment in the state  
38 prison for life; (23) any felony in which the defendant  
39 personally used a dangerous or deadly weapon; (24)  
40 selling, furnishing, administering, giving, or offering to



1 sell, furnish, administer, or give to a minor any heroin,  
2 cocaine, phencyclidine (PCP), or any  
3 methamphetamine-related drug, as described in  
4 paragraph (2) of subdivision (d) of Section 11055 of the  
5 Health and Safety Code, or any of the precursors of  
6 methamphetamines, as described in subparagraph (A) of  
7 paragraph (1) of subdivision (f) of Section 11055 or  
8 subdivision (a) of Section 11100 of the Health and Safety  
9 Code; (25) any violation of subdivision (a) of Section 289  
10 where the act is accomplished against the victim's will by  
11 force, violence, duress, menace, or fear of immediate and  
12 unlawful bodily injury on the victim or another person;  
13 (26) grand theft involving a firearm; (27) carjacking; any  
14 attempt to commit a crime listed in this subdivision other  
15 than an assault; and (20) any conspiracy to commit an  
16 offense described in paragraph (24) as it applies to  
17 Section 11370.4 of the Health and Safety Code where the  
18 defendant conspirator was substantially involved in the  
19 planning, direction, or financing of the underlying  
20 offense.

21 (d) As used in this section, "bank robbery" means to  
22 take or attempt to take, by force or violence, or by  
23 intimidation from the person or presence of another any  
24 property or money or any other thing of value belonging  
25 to, or in the care, custody, control, management, or  
26 possession of, any bank, credit union, or any savings and  
27 loan association.

28 As used in this subdivision, the following terms have the  
29 following meanings:

30 (1) "Bank" means any member bank of the Federal  
31 Reserve System, and any bank, banking association, trust  
32 company, savings bank, or other banking institution  
33 organized or operating under the laws of the United  
34 States, and any bank the deposits of which are insured by  
35 the Federal Deposit Insurance Corporation.

36 (2) "Savings and loan association" means any federal  
37 savings and loan association and any "insured institution"  
38 as defined in Section 401 of the National Housing Act, as  
39 amended, and any federal credit union as defined in  
40 Section 2 of the Federal Credit Union Act.



1 (3) “Credit union” means any federal credit union and  
2 any state-chartered credit union the accounts of which  
3 are insured by the Administrator of the National Credit  
4 Union Administration.

5 (e) The provisions of this section shall not be amended  
6 by the Legislature except by statute passed in each house  
7 by rollcall vote entered in the journal, two-thirds of the  
8 membership concurring, or by a statute that becomes  
9 effective only when approved by the electors.

10 SEC. 13. Section 13894.7 of the Penal Code is  
11 amended to read:

12 13894.7. Under the pilot project, the sheriff of the  
13 designated county shall statistically track the persons  
14 arrested for driving or operating a vehicle while under  
15 the influence for an 18-month period to determine  
16 whether the same individuals are arrested for subsequent  
17 driving or operating offenses during the pilot period and  
18 whether the person’s prior records in the pilot project  
19 fingerprint data base are successfully matched as a result  
20 of the fingerprint identification process.

21 SEC. 14. Section 13894.8 of the Penal Code is  
22 amended to read:

23 13894.8. The sheriff of the portion of the county  
24 designated by the Department of Justice shall take the  
25 fingerprints of persons arrested for driving or operating  
26 a vehicle while under the influence of alcohol or drugs, or  
27 both, with the livescan fingerprint computer system.

28 SEC. 15. *Section 454 is added to the Vehicle Code, to*  
29 *read:*

30 454. *“Operating a vehicle” means having actual,*  
31 *physical control of any or all of the primary mechanical*  
32 *functions of a motor vehicle by any person, including a*  
33 *passenger. For purposes of this section, the “primary*  
34 *mechanical functions” of a motor vehicle are braking,*  
35 *steering, shifting gears, and accelerating.*

36 SEC. 16. Section 1803 of the Vehicle Code is amended  
37 to read:

38 1803. (a) Every clerk of a court in which a person was  
39 convicted of any violation of this code, was convicted of  
40 any violation of subdivision (a), (b), (c), (d), (e), or (f)



1 of Section 655 pertaining to a mechanically propelled  
2 vessel but not to manipulating any water skis, an  
3 aquaplane, or similar device, was convicted of any  
4 violation of Section 655.2, 655.6, 658, or 658.5 of the  
5 Harbors and Navigation Code, or any violation of Section  
6 191.5 of the Penal Code when the conviction resulted  
7 from the operation of a vessel, was convicted of any  
8 offense involving use or possession of controlled  
9 substances under Division 10 (commencing with Section  
10 11000) of the Health and Safety Code, was convicted of  
11 any felony offense when a commercial motor vehicle, as  
12 defined in subdivision (b) of Section 15210, was involved  
13 in or incidental to the commission of the offense, or was  
14 convicted of any violation of any other statute relating to  
15 the safe operation of vehicles, shall prepare within 10 days  
16 after conviction and immediately forward to the  
17 department at its office at Sacramento an abstract of the  
18 record of the court covering the case in which the person  
19 was so convicted. If sentencing is not pronounced in  
20 conjunction with the conviction, the abstract shall be  
21 forwarded to the department within 10 days after  
22 sentencing and the abstract shall be certified by the  
23 person so required to prepare it to be true and correct.

24 For the purposes of this section, a forfeiture of bail shall  
25 be equivalent to a conviction.

26 (b) The following violations are not required to be  
27 reported under subdivision (a):

28 (1) Division 3.5 (commencing with Section 9840).

29 (2) Section 21113, with respect to parking violations.

30 (3) Chapter 9 (commencing with Section 22500) of  
31 Division 11, except Section 22526.

32 (4) Division 12 (commencing with Section 24000),  
33 except Sections 24002, 24004, 24250, 24409, 24604, 24800,  
34 25103, 26707, 27151, 27315, 27360, 27800, and 27801 and  
35 Chapter 3 (commencing with Section 26301).

36 (5) Division 15 (commencing with Section 35000),  
37 except Chapter 5 (commencing with Section 35550).

38 (6) Violations for which a person was cited as a  
39 pedestrian or while operating a bicycle.

40 (7) Division 16.5 (commencing with Section 38000).



1 (8) Sections 23221, 23223, 23225, and 23226.

2 (c) If the court impounds a license or orders a person  
3 to limit his or her driving pursuant to paragraph (2) of  
4 subdivision (a) of Section 23161, subdivision (b) of  
5 Section 23166, or subdivision (c) of Section 40508, the  
6 court shall notify the department concerning the  
7 impoundment or limitation on an abstract prepared  
8 pursuant to subdivision (a) of this section or on a separate  
9 abstract, which shall be prepared within 10 days after the  
10 impoundment or limitation was ordered and  
11 immediately forwarded to the department at its office in  
12 Sacramento.

13 (d) If the court determines that a prior judgment of  
14 conviction of a violation of Section 23152 or 23153 is valid  
15 or is invalid on constitutional grounds pursuant to Section  
16 41403, the clerk of the court in which the determination  
17 is made shall prepare an abstract of that determination  
18 and forward it to the department in the same manner as  
19 an abstract of record pursuant to subdivision (a).

20 (e) Within 10 days of an order terminating or revoking  
21 probation under Section 23167 or 23207, the clerk of the  
22 court in which the order terminating or revoking  
23 probation was entered, shall prepare and immediately  
24 forward to the department at its office in Sacramento an  
25 abstract of the record of the court order terminating or  
26 revoking probation and any other order of the court to  
27 the department required by law.

28 ~~SEC. 16.~~

29 *SEC. 17.* Section 1821 of the Vehicle Code is amended  
30 to read:

31 1821. The department shall establish and maintain a  
32 data and monitoring system to evaluate the efficacy of  
33 intervention programs for persons convicted of violations  
34 of Section 23152 or 23153.

35 The system may include a recidivism tracking system.  
36 The recidivism tracking system may include, but not be  
37 limited to, jail sentencing, license restriction, license  
38 suspension, level I (first offender) and II (multiple  
39 offender) alcohol and drug education and treatment  
40 program assignment, alcohol and drug education

1 treatment program readmission and dropout rates,  
2 adjudicating court, length of jail term, actual jail or  
3 alternative sentence served, type of treatment program  
4 assigned, actual program compliance status, subsequent  
5 accidents related to driving or operating a vehicle while  
6 under the influence of alcohol or drugs, and subsequent  
7 convictions of violations of Section 23152 or 23153.

8 The department shall submit an annual report of its  
9 evaluations to the Legislature. The evaluations shall  
10 include a ranking of the relative efficacy of criminal  
11 penalties, other sanctions, and intervention programs  
12 and the various combinations thereof.

13 ~~SEC. 17.~~

14 *SEC. 18.* Section 9250.14 of the Vehicle Code is  
15 amended to read:

16 9250.14. (a) In addition to any other fees specified in  
17 this code and the Revenue and Taxation Code, upon the  
18 adoption of a resolution by any county board of  
19 supervisors, a fee of one dollar (\$1) shall be paid at the  
20 time of registration or renewal of registration of every  
21 vehicle registered to an address within that county except  
22 those expressly exempted from payment of registration  
23 fees. The fees, after deduction of the administrative costs  
24 incurred by the department in carrying out this section,  
25 shall be paid quarterly to the Controller.

26 (b) Notwithstanding Section 13340 of the  
27 Government Code, the money paid to the Controller is  
28 continuously appropriated, without regard to fiscal years,  
29 for the administrative costs of the Controller, and for  
30 disbursement by the Controller to each county that has  
31 adopted a resolution pursuant to subdivision (a), based  
32 upon the number of vehicles registered, or whose  
33 registration is renewed, to an address within that county.

34 (c) Except as otherwise provided in this subdivision,  
35 money allocated to a county pursuant to subdivision (b)  
36 shall be expended exclusively to fund programs that  
37 enhance the capacity of local police and prosecutors to  
38 deter, investigate, and prosecute vehicle theft crimes. In  
39 any county with a population of 200,000 or less, the money  
40 shall be expended exclusively for those vehicle theft



1 crime programs and for the prosecution of crimes  
2 involving driving or operating a vehicle while under the  
3 influence of alcohol or drugs in violation of Section 23152  
4 or 23153, or vehicular manslaughter in violation of Section  
5 191.5 or subdivision (c) of Section 192 of the Penal Code,  
6 or any combination of those crimes.

7 (d) No money collected pursuant to this section shall  
8 be expended to offset a reduction in any other source of  
9 funds, nor for any purpose not authorized under this  
10 section.

11 (e) Any funds received by a county prior to January 1,  
12 1996, pursuant to this section that are not expended to  
13 deter, investigate, or prosecute crimes pursuant to  
14 subdivision (c) shall be returned to the Controller, for  
15 deposit in the Motor Vehicle Account in the State  
16 Transportation Fund. Those funds received by a county  
17 after January 1, 1996, shall be expended in accordance  
18 with this section.

19 (f) This section shall remain in effect only until  
20 January 1, 2000, and as of that date is repealed, unless a  
21 later enacted statute, that is enacted on or before January  
22 1, 2000, deletes or extends that date.

23 ~~SEC. 18.~~

24 *SEC. 19.* Section 12802.5 of the Vehicle Code is  
25 amended to read:

26 12802.5. Before issuing a driver's license or permit to  
27 any person under 21 years of age, both of the following  
28 shall occur:

29 (a) The department shall inform the applicant of the  
30 following, pursuant to Article 1.3 (commencing with  
31 Section 23136) of Chapter 12 of Division 11:

32 (1) It is unlawful to drive or operate a vehicle with a  
33 blood-alcohol concentration of 0.01 percent or greater, as  
34 measured by a preliminary alcohol screening test.

35 (2) The penalty for so driving or operating is a  
36 one-year suspension of the driving privilege.

37 (3) A refusal to take, or a failure to complete, a  
38 preliminary alcohol screening test for the purpose of  
39 determining the level of alcohol pursuant to Section



1 23137 shall result in a one-year suspension of the driving  
2 privilege.

3 (4) The fee for reissuance of a driver’s license after  
4 suspension for a violation of Section 23136 is one hundred  
5 dollars (\$100). This fee is in addition to any other fees that  
6 may be imposed by the department in connection with  
7 reissuance of a driver’s license.

8 (b) The applicant shall sign a statement that  
9 acknowledges that he or she has been notified of the  
10 information specified in subdivision (a).

11 ~~SEC. 19.~~

12 *SEC. 20.* Section 13350 of the Vehicle Code is  
13 amended to read:

14 13350. (a) The department immediately shall revoke  
15 the privilege of any person to drive a motor vehicle upon  
16 receipt of a duly certified abstract of the record of any  
17 court showing that the person has been convicted of any  
18 of the following crimes or offenses:

19 (1) Failure of the driver of a vehicle involved in an  
20 accident resulting in injury or death to any person to stop  
21 or otherwise comply with Section 20001.

22 (2) Any felony in the commission of which a motor  
23 vehicle is used, except as provided in Section 13351, 13352,  
24 or 13357.

25 (3) Reckless driving causing bodily injury.

26 (b) If a person is convicted of a violation of Section  
27 23152 punishable under Section 23175, or a violation of  
28 Section 23153 punishable under Section 23190, including  
29 a violation of paragraph (3) of subdivision (c) of Section  
30 192 of the Penal Code as provided in Section 193.7 of that  
31 code, the court shall, at the time of surrender of the  
32 driver’s license or temporary permit, require the  
33 defendant to sign an affidavit in a form provided by the  
34 department acknowledging his or her understanding of  
35 the revocation required by paragraph (4) or (5) of  
36 subdivision (a) of Section 13352, and an acknowledgment  
37 of his or her designation as an habitual traffic offender. A  
38 copy of this affidavit shall be transmitted, with the license  
39 or temporary permit, to the department within the  
40 prescribed 10 days.



1 (c) The department shall not reinstate the privilege  
2 revoked under subdivision (a) until the expiration of one  
3 year after the date of revocation and until the person  
4 whose privilege was revoked gives proof of financial  
5 responsibility as defined in Section 16430.

6 ~~SEC. 20.~~

7 *SEC. 21.* Section 13352 of the Vehicle Code is  
8 amended to read:

9 13352. (a) The department shall immediately  
10 suspend or revoke, or record the court-administered  
11 suspension or revocation of, the privilege of any person  
12 to operate a motor vehicle upon receipt of a duly certified  
13 abstract of the record of any court showing that the  
14 person has been convicted of a violation of Section 23152  
15 or 23153 or subdivision (a) of Section 23109, or upon  
16 receipt of a report of a judge of the juvenile court, a  
17 juvenile traffic hearing officer, or a referee of a juvenile  
18 court showing that the person has been found to have  
19 committed a violation of Section 23152 or 23153 or  
20 subdivision (a) of Section 23109. If any offense in this  
21 section occurs in a vehicle defined in Section 15210, the  
22 suspension or revocation specified below shall apply to  
23 the noncommercial driving privilege. The commercial  
24 driving privilege shall be disqualified as specified in  
25 Section 15300. For purposes of this section, suspension or  
26 revocation shall be as follows:

27 (1) Upon a conviction or finding of a violation of  
28 Section 23152 punishable under Section 23160, the  
29 privilege shall be suspended for a period of six months if  
30 the court orders the department to suspend the privilege,  
31 or if the court does not grant probation. If the person  
32 gives proof of ability to respond in damages as defined in  
33 Section 16430, the department shall issue the restricted  
34 license upon receipt of an abstract of record from the  
35 court pursuant to Section 1803 certifying that the court  
36 has granted probation to the person on conditions which  
37 include the condition specified in subdivision (b) of  
38 Section 23161. The privilege shall not be reinstated until  
39 the person gives proof of ability to respond in damages  
40 and gives proof satisfactory to the department of



1 successful completion of a program described in Section  
2 23161.

3 (2) Upon a conviction or finding of a violation of  
4 Section 23153 punishable under Section 23180, the  
5 privilege shall be suspended for a period of one year. The  
6 privilege shall not be reinstated until the person gives  
7 proof of ability to respond in damages and gives proof  
8 satisfactory to the department of successful completion of  
9 a program described in Section 23161.

10 (3) Except as provided in Section 13352.5, upon a  
11 conviction or finding of a violation of Section 23152  
12 punishable under Section 23165, the privilege shall be  
13 suspended for 18 months. The privilege shall not be  
14 reinstated until the person gives proof of ability to  
15 respond in damages and gives proof satisfactory to the  
16 department of successful completion of a program  
17 described in Section 23166.

18 (4) Upon a conviction or finding of a violation of  
19 Section 23153 punishable under Section 23190, the  
20 privilege shall be revoked for a period of five years. The  
21 privilege shall not be reinstated until evidence  
22 satisfactory to the department establishes that no grounds  
23 exist which would authorize the refusal to issue a license  
24 and until the person gives proof of ability to respond in  
25 damages and gives proof satisfactory to the department  
26 of successful completion, subsequent to the most recent  
27 underlying conviction, of one of the following programs:  
28 a 30-month program, if available in the county of the  
29 person's residence or employment or, if not available, an  
30 18-month program licensed pursuant to Chapter 9  
31 (commencing with Section 11836) of Part 2 of Division  
32 10.5 of the Health and Safety Code, or a program specified  
33 in Section 8001 of the Penal Code. The court shall advise  
34 the person at the time of sentencing that completion of  
35 one of the programs authorized by this paragraph is  
36 required in order to become eligible for a California  
37 driver's license. The court shall also advise the person that  
38 after the completion of 24 months of the revocation  
39 period, the person may apply to the court for an order



1 granting a restricted driver's license, subject to the  
2 following conditions:

3 (A) (i) The person has satisfactorily completed,  
4 subject to the current underlying conviction, the  
5 18-month program or the initial 18 months of a licensed  
6 30-month program, as applicable, pursuant to Section  
7 11836 of the Health and Safety Code.

8 (ii) The person agrees, as a condition of the restriction,  
9 to continue satisfactory participation in the 30-month  
10 program, if applicable, and to have installed and  
11 maintained, as described in Section 23246, an ignition  
12 interlock device. The court shall require proof of  
13 installation of the device before issuing an order granting  
14 a restricted license. Once the order granting a restricted  
15 license is issued, all maintenance requirements in Section  
16 23246 apply and the driver becomes subject to the  
17 prohibitions and penalties provided in Section 23247.

18 (iii) The person provides proof of responsibility to  
19 respond in damages.

20 (iv) The person has not applied for and received an  
21 order in conjunction with the current underlying  
22 conviction or a prior conviction for a violation of Section  
23 23103, 23152, or 23153, if the prior conviction was within  
24 the previous seven years.

25 (B) Any individual convicted of a violation of Section  
26 23153 punishable under Section 23190 may also, at any  
27 time after sentencing, petition the court for referral to an  
28 18-month program or, if available in the county of the  
29 person's residence or employment, a 30-month program  
30 licensed pursuant to Chapter 9 (commencing with  
31 Section 11836) of Part 2 of Division 10.5 of the Health and  
32 Safety Code. Unless good cause is shown, the court shall  
33 order the referral.

34 (5) Upon a conviction or finding of a violation of  
35 Section 23152 punishable under Section 23175, the  
36 privilege shall be revoked for a period of four years. The  
37 privilege shall not be reinstated until evidence  
38 satisfactory to the department establishes that no grounds  
39 exist which would authorize the refusal to issue a license  
40 and until the person gives proof of ability to respond in



1 damages and gives proof satisfactory to the department  
2 of successful completion, subsequent to the most recent  
3 underlying conviction, of one of the following programs:  
4 an 18-month program or, if available in the county of the  
5 person's residence or employment, a 30-month program  
6 licensed pursuant to Chapter 9 (commencing with  
7 Section 11836) of Part 2 of Division 10.5 of the Health and  
8 Safety Code, or a program specified in Section 8001 of the  
9 Penal Code. The court shall advise the person at the time  
10 of sentencing that completion of one of the programs  
11 authorized by this paragraph is required in order to  
12 become eligible for a California driver's license. The  
13 court shall also advise the person that after the  
14 completion of 24 months of the revocation period, the  
15 person may apply to the court for an order granting a  
16 restricted driver's license, subject to the following  
17 conditions:

18 (A) The person has satisfactorily completed, subject to  
19 the current underlying conviction, the initial 18 months  
20 of a licensed 30-month program pursuant to Section 11836  
21 of the Health and Safety Code.

22 (B) The person agrees, as a condition of the restriction,  
23 to continue satisfactory participation in the 30-month  
24 program, if applicable, and to have installed and  
25 maintained, as described in Section 23246, an ignition  
26 interlock device. The court shall require proof of  
27 installation of the device before issuing an order granting  
28 a restricted license. Once the order granting a restricted  
29 license is issued, all maintenance requirements in Section  
30 23246 apply and the driver becomes subject to the  
31 prohibitions and penalties provided in Section 23247.

32 (C) The person provides proof of responsibility to  
33 respond in damages.

34 (D) The person has not applied for and received an  
35 order in conjunction with the current underlying  
36 conviction or a prior conviction for violation of Section  
37 23103, 23152, or 23153, if the prior conviction was within  
38 the previous seven years.

39 (E) Any individual convicted of a violation of Section  
40 23152 punishable under Section 23175 may also, at any



1 time after sentencing, petition the court for referral to an  
2 18-month program or, if available in the county of the  
3 person's residence or employment, a 30-month program  
4 licensed pursuant to Chapter 9 (commencing with  
5 Section 11836) of Part 2 of Division 10.5 of the Health and  
6 Safety Code. Unless good cause is shown, the court shall  
7 order the referral.

8 (6) Upon a conviction or finding of a violation of  
9 subdivision (a) of Section 23109 punishable under  
10 subdivision (e) of that section, the privilege shall be  
11 suspended for a period of 90 days to six months, if and as  
12 ordered by the court.

13 (7) Upon a conviction or finding of a violation of  
14 subdivision (a) of Section 23109 punishable under  
15 subdivision (f) of that section, the privilege shall be  
16 suspended for a period of six months, if the court orders  
17 the department to suspend the privilege. The privilege  
18 shall not be reinstated until the person gives proof of  
19 ability to respond in damages.

20 (b) For the purpose of paragraphs (2) to (7), inclusive,  
21 of subdivision (a), the finding of the juvenile court judge,  
22 the juvenile traffic hearing officer, or the referee of a  
23 juvenile court of a commission of a violation of Section  
24 23152 or 23153 or subdivision (a) of Section 23109, as  
25 specified in subdivision (a) of this section, is a conviction.

26 (c) Each judge of a juvenile court, juvenile traffic  
27 hearing officer, or referee of a juvenile court shall  
28 immediately report the findings specified in subdivision  
29 (a) to the department.

30 (d) A conviction of an offense in any state, territory, or  
31 possession of the United States, the District of Columbia,  
32 the Commonwealth of Puerto Rico, or Canada which, if  
33 committed in this state, would be a violation of Section  
34 23152, is a conviction of Section 23152 for purposes of this  
35 section, and a conviction of an offense which, if  
36 committed in this state, would be a violation of Section  
37 23153, is a conviction of Section 23153 for purposes of this  
38 section. The department shall suspend or revoke the  
39 privilege to operate a motor vehicle pursuant to this  
40 section upon receiving notice of that conviction.



1 (e) Whenever the driving privilege is restricted,  
2 suspended, or revoked pursuant to this section, the  
3 department shall not issue a restricted driver's license or  
4 reinstate the driving privilege unless the person gives  
5 proof of ability to respond in damages and maintains that  
6 proof for three years. If, at any time during that  
7 three-year period, a person who is required to maintain  
8 that proof fails to maintain that proof, the department  
9 shall suspend that person's driving privilege until the  
10 proof of ability to respond in damages is again given to the  
11 department.

12 ~~SEC. 21.~~

13 *SEC. 22.* Section 13352.5 of the Vehicle Code is  
14 amended to read:

15 13352.5. (a) Unless ordered to do so by the court  
16 upon a finding that the terms and conditions of probation  
17 were violated, the department shall not suspend,  
18 pursuant to paragraph (3) of subdivision (a) of Section  
19 13352, but shall restrict, the privilege of any person to  
20 operate a motor vehicle upon a conviction or finding that  
21 the person violated Section 23152. This requirement shall  
22 apply only if the court has certified to the department  
23 that the court has granted probation to the person under  
24 conditions that include those specified in subdivision (b)  
25 of Section 23166, the court has restricted the privilege to  
26 operate a motor vehicle as provided in that subdivision,  
27 and the person gives proof of financial responsibility, as  
28 defined in Section 16430.

29 (b) Subdivision (a) does not apply to a person who has  
30 been referred or rereferred into a program licensed  
31 pursuant to Chapter 9 (commencing with Section 11836)  
32 of Part 2 of Division 10.5 of the Health and Safety Code  
33 within four years after the person ceases his or her prior  
34 participation in a program. The four-year period shall  
35 commence either on the date the person successfully  
36 completes the program or on the date on which the  
37 person's driving privilege was suspended or revoked by  
38 the department for failure to comply with the program's  
39 rules and regulations, whichever is later. The eligibility of  
40 a person convicted of a violation of Section 23152 or 23153



1 subsequent to the commencement of a four-year period,  
2 to participate in the program again for purposes of this  
3 section, shall be determined on the basis of the date on  
4 which the person is alleged to have committed that  
5 offense.

6 (c) The restriction of the driving privilege under  
7 subdivision (a) shall become effective 30 days from the  
8 date on which the person consented to participate in the  
9 program specified in subdivision (a), excluding any time  
10 of imprisonment ordered by the court. This requirement  
11 applies only if the person presents evidence satisfactory  
12 to the department that he or she is participating in the  
13 program specified in subdivision (b) of Section 23166,  
14 gives proof of financial responsibility, and pays fees to the  
15 department of fifteen dollars (\$15) upon application for  
16 the restricted license and twenty dollars (\$20) upon  
17 completion of the treatment program or upon  
18 application for an unrestricted license, whichever is  
19 sooner. If the person fails to apply for a restricted license,  
20 fails to give proof of financial responsibility, or if the  
21 person fails to show evidence of participation within 30  
22 days, excluding the time of imprisonment ordered by the  
23 court, the department shall suspend the driving privilege  
24 of the person for the time prescribed in paragraph (3) of  
25 subdivision (a) of Section 13352.

26 (d) The driving privilege restricted under subdivision  
27 (a) shall be limited to the hours for driving to and from  
28 the place of employment and during the course of  
29 employment, and driving to and from activities required  
30 in an alcohol treatment program specified in subdivision  
31 (b) of Section 23166. The department may set forth the  
32 times and days of restricted operation established by the  
33 court either on a special restricted license or upon the  
34 usual license form. Whenever the driving privilege is  
35 restricted under subdivision (a), proof of financial  
36 responsibility shall be maintained for three years. If the  
37 person maintains proof of financial responsibility, the  
38 restriction shall continue in full force and effect until the  
39 person presents evidence satisfactory to the department  
40 that the person has completed the alcohol treatment



1 program. The length of the restriction for a person  
2 subject to subdivision (a) shall not be less than the total  
3 time of restriction specified in subdivision (b) of Section  
4 23166.

5 (e) Except as provided in this subdivision, the  
6 department shall suspend or revoke the driving privilege  
7 for the time prescribed in paragraph (3) of subdivision  
8 (a) of Section 13352, 60 days from the date that the  
9 department notifies the person and the court of the  
10 intended action pursuant to subdivision (a) of Section  
11 11837.1 of the Health and Safety Code, or from the date  
12 ending the additional time ordered by the court under  
13 this subdivision, whichever is later. If the person presents  
14 evidence satisfactory to the department that the court of  
15 jurisdiction has consented to the person's reinstatement  
16 in the program and the person gives proof of financial  
17 responsibility, the department shall continue in effect the  
18 restriction granted under subdivision (b). However, if  
19 the person previously has been reinstated in the program  
20 on one or more occasions, the department shall suspend  
21 or revoke the driving privilege for the time prescribed in  
22 paragraph (3) of subdivision (a) of Section 13352. The  
23 evidence shall be presented within 45 days of the notice  
24 from the department of the intended action or the  
25 additional time, not to exceed an additional 45 days, for  
26 the determination, as is required, ordered, and  
27 transmitted to the department by the court, which  
28 additional time is not caused by any action or failure to act  
29 by the person.

30 (f) All abstracts of record showing a conviction that  
31 are forwarded to the department pursuant to Section  
32 1803 shall state whether the court has granted probation  
33 to the person under conditions that include those  
34 specified in subdivision (b) of Section 23166 , and that  
35 state the date on which the person consented to  
36 participate in the program.

37 (g) The department, in cooperation with the State  
38 Department of Alcohol and Drug Programs, shall adopt  
39 regulations as it deems necessary to implement this  
40 section.



1 (h) This section does not apply to persons whose  
2 offense occurred in a vehicle requiring a driver with a  
3 class 1, class 2, class A, or class B driver's license, or with  
4 an endorsement specified in Section 15278.

5 ~~SEC. 22.~~

6 SEC. 23. Section 13353 of the Vehicle Code is  
7 amended to read:

8 13353. (a) If any person refuses the officer's request  
9 to submit to, or fails to complete, a chemical test or tests  
10 pursuant to Section 23157, upon receipt of the officer's  
11 sworn statement that the officer had reasonable cause to  
12 believe the person had been driving or operating a motor  
13 vehicle in violation of Section 23140, 23152, or 23153, and  
14 that the person had refused to submit to, or did not  
15 complete, the test or tests after being requested by the  
16 officer, the department shall do one of the following:

17 (1) Suspend the person's privilege to operate a motor  
18 vehicle for a period of one year.

19 (2) Revoke the person's privilege to operate a motor  
20 vehicle for a period of two years if the refusal occurred  
21 within seven years of either (A) a separate violation of  
22 Section 23103 as specified in Section 23103.5, or of Section  
23 23140, 23152, or 23153, or of Section 191.5 or paragraph (3)  
24 of subdivision (c) of Section 192 of the Penal Code, which  
25 resulted in a conviction, or (B) a suspension or revocation  
26 of the person's privilege to operate a motor vehicle  
27 pursuant to this section or Section 13353.2 for an offense  
28 which occurred on a separate occasion.

29 (3) Revoke the person's privilege to operate a motor  
30 vehicle for a period of three years if the refusal occurred  
31 within seven years of any of the following:

32 (A) Two or more separate violations of Section 23103  
33 as specified in Section 23103.5, or of Section 23140, 23152,  
34 or 23153, or of Section 191.5 or paragraph (3) of  
35 subdivision (c) of Section 192 of the Penal Code, or any  
36 combination thereof, which resulted in convictions.

37 (B) Two or more suspensions or revocations of the  
38 person's privilege to operate a motor vehicle pursuant to  
39 this section or Section 13353.2 for offenses which occurred  
40 on separate occasions.



1 (C) Any combination of two or more of those  
2 convictions or administrative suspensions or revocations.

3 The officer's sworn statement shall be submitted  
4 pursuant to Section 23158.2 on a form furnished or  
5 approved by the department. The suspension or  
6 revocation shall not become effective until 30 days after  
7 the giving of written notice thereof, or until the end of  
8 any stay of the suspension or revocation, as provided for  
9 in Section 13558.

10 (b) The notice of the order of suspension or revocation  
11 under this section shall be served on the person by a peace  
12 officer pursuant to Section 23157. The notice of the order  
13 of suspension or revocation shall be on a form provided  
14 by the department. If the notice of the order of  
15 suspension or revocation has not been served by the  
16 peace officer pursuant to Section 23157, the department  
17 immediately shall notify the person in writing of the  
18 action taken. The peace officer who serves the notice, or  
19 the department, if applicable, also shall provide, if the  
20 officer or department, as the case may be, determines  
21 that it is necessary to do so, the person with the  
22 appropriate non-English notice developed pursuant to  
23 subdivision (d) of Section 14100.

24 (c) Upon receipt of the officer's sworn statement, the  
25 department shall review the record. For purposes of this  
26 section, the scope of the administrative review shall cover  
27 all of the following issues:

28 (1) Whether the peace officer had reasonable cause to  
29 believe the person had been driving *or operating* a motor  
30 vehicle in violation of Section 23140, 23152, or 23153.

31 (2) Whether the person was placed under arrest.

32 (3) Whether the person refused to submit to, or did not  
33 complete, the test or tests after being requested by a  
34 peace officer.

35 (4) Whether, except for the persons described in  
36 subdivision (a) of Section 23157 who are incapable of  
37 refusing, the person had been told that his or her driving  
38 privilege would be suspended or revoked if he or she  
39 refused to submit to, or did not complete, the test or tests.



1 (d) The person may request an administrative hearing  
2 pursuant to Section 13558. Except as provided in  
3 subdivision (e) of Section 13558, the request for an  
4 administrative hearing does not stay the order of  
5 suspension or revocation.

6 ~~SEC. 23.~~

7 *SEC. 24.* Section 13353.1 of the Vehicle Code is  
8 amended to read:

9 13353.1. (a) If any person refuses an officer's request  
10 to submit to, or fails to complete, a preliminary alcohol  
11 screening test pursuant to Section 23137, upon receipt of  
12 the officer's sworn statement, submitted pursuant to  
13 Section 23158.2, that the officer had reasonable cause to  
14 believe the person had been driving or operating a motor  
15 vehicle in violation of Section 23136, and that the person  
16 had refused to submit to, or did not complete, the test  
17 after being requested by the officer, the department shall  
18 do one of the following:

19 (1) Suspend the person's privilege to operate a motor  
20 vehicle for a period of one year.

21 (2) Revoke the person's privilege to operate a motor  
22 vehicle for a period of two years if the refusal occurred  
23 within seven years of either of the following:

24 (A) A separate violation of subdivision (a) of Section  
25 23136, which resulted in a finding of a violation, or a  
26 separate violation, which resulted in a conviction, of  
27 Section 23103, as specified in Section 23103.5, of Section  
28 23140, 23152, or 23153, of Section 191.5 of the Penal Code,  
29 or of paragraph (3) of subdivision (c) of Section 192 of  
30 that code.

31 (B) A suspension or revocation of the person's  
32 privilege to operate a motor vehicle if that action was  
33 taken pursuant to this section or Section 13353 or 13353.2  
34 for an offense that occurred on a separate occasion.

35 (3) Revoke the person's privilege to operate a motor  
36 vehicle for a period of three years if the refusal occurred  
37 within seven years of any of the following:

38 (A) Two or more separate violations of subdivision (a)  
39 of Section 23136, which resulted in findings of violations,  
40 or two or more separate violations, which resulted in



1 convictions, of Section 23103, as specified in Section  
2 23103.5, of Section 23140, 23152, or 23153, of Section 191.5  
3 of the Penal Code, or of paragraph (3) of subdivision (c)  
4 of Section 192 of that code, or any combination thereof.

5 (B) Two or more suspensions or revocations of the  
6 person's privilege to operate a motor vehicle if those  
7 actions were taken pursuant to this section, or Section  
8 13353 or 13353.2, for offenses that occurred on separate  
9 occasions.

10 (C) Any combination of two or more of the convictions  
11 or administrative suspensions or revocations described in  
12 subparagraphs (A) or (B).

13 (b) The notice of the order of suspension or revocation  
14 under this section shall be served on the person by the  
15 peace officer pursuant to Section 23137 and shall not  
16 become effective until 30 days after the person is served  
17 with that notice. The notice of the order of suspension or  
18 revocation shall be on a form provided by the  
19 department. If the notice of the order of suspension or  
20 revocation has not been served by the peace officer  
21 pursuant to Section 23137, the department immediately  
22 shall notify the person in writing of the action taken. The  
23 peace officer who serves the notice, or the department,  
24 if applicable, also shall provide, if the officer or  
25 department, as the case may be, determines that it is  
26 necessary to do so, the person with the appropriate  
27 non-English notice developed pursuant to subdivision  
28 (d) of Section 14100.

29 (c) Upon receipt of the officer's sworn statement, the  
30 department shall review the record. For purposes of this  
31 section, the scope of the administrative review shall cover  
32 all of the following issues:

33 (1) Whether the peace officer had reasonable cause to  
34 believe the person had been driving or operating a motor  
35 vehicle in violation of Section 23136.

36 (2) Whether the person was lawfully detained.

37 (3) Whether the person refused to submit to, or did not  
38 complete, the test after being requested to do so by a  
39 peace officer.



1 (d) The person may request an administrative hearing  
2 pursuant to Section 13558. Except as provided in  
3 subdivision (e) of Section 13558, the request for an  
4 administrative hearing does not stay the order of  
5 suspension or revocation.

6 ~~SEC. 24.~~

7 *SEC. 25.* Section 13353.2 of the Vehicle Code is  
8 amended to read:

9 13353.2. (a) The department shall immediately  
10 suspend the privilege of any person to operate a motor  
11 vehicle for any one of the following reasons:

12 (1) The person was driving or operating a motor  
13 vehicle when the person had 0.08 percent or more, by  
14 weight, of alcohol in his or her blood.

15 (2) The person was under 21 years of age and was  
16 driving or operating a motor vehicle when the person had  
17 0.05 percent or more, by weight, of alcohol in his or her  
18 blood.

19 (3) The person was under 21 years of age and was  
20 driving or operating a motor vehicle when the person had  
21 a blood-alcohol concentration of 0.01 percent or greater,  
22 as measured by a preliminary alcohol screening test, or  
23 other chemical test.

24 (b) The notice of the order of suspension under this  
25 section shall be served on the person by a peace officer  
26 pursuant to Section 23137 or 23158.5. The notice of the  
27 order of suspension shall be on a form provided by the  
28 department. If the notice of the order of suspension has  
29 not been served upon the person by the peace officer  
30 pursuant to Section 23137 or 23158.5, upon the receipt of  
31 the report of a peace officer submitted pursuant to  
32 Section 23158.2, the department shall mail written notice  
33 of the order of the suspension to the person at the last  
34 known address shown on the department's records and,  
35 if the address of the person provided by the peace  
36 officer's report differs from the address of record, to that  
37 address.

38 (c) The notice of the order of suspension shall clearly  
39 specify the reason and statutory grounds for the  
40 suspension, the effective date of the suspension, the right



1 of the person to request an administrative hearing, the  
2 procedure for requesting an administrative hearing, and  
3 the date by which a request for an administrative hearing  
4 shall be made in order to receive a determination prior  
5 to the effective date of the suspension.

6 (d) The department shall make a determination of the  
7 facts in subdivision (a) on the basis of the report of a peace  
8 officer submitted pursuant to Section 23158.2. The  
9 determination of the facts, after administrative review  
10 pursuant to Section 13557, by the department is final,  
11 unless an administrative hearing is held pursuant to  
12 Section 13558 and any judicial review of the  
13 administrative determination after the hearing pursuant  
14 to Section 13559 is final.

15 (e) The determination of the facts in subdivision (a)  
16 is a civil matter which is independent of the  
17 determination of the person's guilt or innocence, shall  
18 have no collateral estoppel effect on a subsequent  
19 criminal prosecution, and shall not preclude the litigation  
20 of the same or similar facts in the criminal proceeding. If  
21 a person is acquitted of criminal charges relating to a  
22 determination of facts under subdivision (a), or if the  
23 person's driver's license was suspended pursuant to  
24 Section 23137 and the department finds no basis for a  
25 suspension pursuant to that section, the department shall  
26 immediately reinstate the person's privilege to operate a  
27 motor vehicle if the department has suspended it  
28 administratively pursuant to subdivision (a), and the  
29 department shall return or reissue for the remaining term  
30 any driver's license which has been taken from the person  
31 pursuant to Section 23158.5 or otherwise.  
32 Notwithstanding subdivision (b) of Section 13558, if  
33 criminal charges under Section 23140, 23152, or 23153 are  
34 not filed by the district attorney because of a lack of  
35 evidence, or if those charges are filed but are  
36 subsequently dismissed by the court because of an  
37 insufficiency of evidence, the person has a renewed right  
38 to request an administrative hearing before the  
39 department. The request for a hearing shall be made  
40 within one year from the date of arrest.



1 (f) The department shall furnish a form that requires  
2 a detailed explanation specifying which evidence was  
3 defective or lacking and detailing why that evidence was  
4 defective or lacking. The form shall be made available to  
5 the person to provide to the district attorney. The  
6 department shall hold an administrative hearing, and the  
7 hearing officer shall consider the reasons for the failure to  
8 prosecute given by the district attorney on the form  
9 provided by the department. If applicable, the hearing  
10 officer shall consider the reasons stated on the record by  
11 a judge who dismisses the charges. No fee shall be  
12 imposed pursuant to Section 14905 for the return or  
13 reissuing of a driver's license pursuant to this subdivision.  
14 The disposition of a suspension action under this section  
15 does not affect any action to suspend or revoke the  
16 person's privilege to operate a motor vehicle under any  
17 other provision of this code, including, but not limited to,  
18 Section 13352 or 13353, or Chapter 3 (commencing with  
19 Section 13800).

20 ~~SEC. 25.~~

21 *SEC. 26.* Section 13353.3 of the Vehicle Code is  
22 amended to read:

23 13353.3. (a) An order of suspension of a person's  
24 privilege to operate a motor vehicle pursuant to Section  
25 13353.2 shall become effective 30 days after the person is  
26 served with the notice pursuant to Section 23137 or  
27 23158.5, or subdivision (b) of Section 13353.2.

28 (b) The period of suspension of a person's privilege to  
29 operate a motor vehicle under Section 13353.2 is as  
30 follows:

31 (1) Except as provided in Section 13353.6, if the person  
32 has not been convicted of a separate violation of Section  
33 23103, as specified in Section 23103.5, of Section 23140,  
34 23152, or 23153, of Section 191.5 of the Penal Code, or of  
35 paragraph (3) of subdivision (c) of Section 192 of that  
36 code, the person has not been administratively  
37 determined to have refused chemical testing pursuant to  
38 Section 13353 or 13353.1, or the person has not been  
39 administratively determined to have been driving or  
40 operating a vehicle with an excessive concentration of



1 alcohol pursuant to Section 13353.2 on a separate  
2 occasion, which offense or occurrence occurred within  
3 seven years of the occasion in question, the person's  
4 privilege to operate a motor vehicle shall be suspended  
5 for four months.

6 (2) If the person has been convicted of one or more  
7 separate violations of Section 23103, as specified in  
8 Section 23103.5, of Section 23140, 23152, or 23153, of  
9 Section 191.5 of the Penal Code, or of paragraph (3) of  
10 subdivision (c) of Section 192 of that code, the person has  
11 been administratively determined to have refused  
12 chemical testing pursuant to Section 13353 or 13353.1, or  
13 the person has been administratively determined to have  
14 been driving or operating a vehicle with an excessive  
15 concentration of alcohol pursuant to Section 13353.2 on a  
16 separate occasion, which offense or occasion occurred  
17 within seven years of the occasion in question, the  
18 person's privilege to operate a motor vehicle shall be  
19 suspended for one year.

20 (3) Notwithstanding any other provision of law, if a  
21 person has been administratively determined to have  
22 been driving or operating a vehicle in violation of Section  
23 23136 or to have refused chemical testing pursuant to  
24 Section 13353.1, the period of suspension shall not be for  
25 less than one year.

26 (c) If a person's privilege to operate a motor vehicle is  
27 suspended pursuant to Section 13353.2 and the person is  
28 convicted of a violation of Section 23140, 23152, or 23153,  
29 including a violation described in Section 23156, arising  
30 out of the same occurrence, both the suspension under  
31 Section 13353.2 and the suspension or revocation under  
32 Section 13352 shall be imposed, except that,  
33 notwithstanding Section 13354, the periods of suspension  
34 or revocation shall run concurrently, and the total period  
35 of suspension or revocation shall not exceed the longer of  
36 the two suspension or revocation periods. This  
37 subdivision shall not affect a suspension or revocation  
38 pursuant to Section 13353 for refusal to submit to  
39 chemical testing or the imposition of consecutive periods



1 of suspension or revocation pursuant to Section 13354 for  
2 that refusal.

3 ~~SEC. 26.~~

4 *SEC. 27.* Section 13353.4 of the Vehicle Code is  
5 amended to read:

6 13353.4. (a) Except as provided in subdivision (b) of  
7 Section 13353.6, or Section 13353.7 or 13353.8, the driving  
8 privilege shall not be restored, and no restricted or  
9 hardship permit to operate a motor vehicle shall be  
10 issued, to a person during the suspension or revocation  
11 period specified in Section 13353, 13353.1, or 13353.3.

12 (b) The privilege to operate a motor vehicle shall not  
13 be restored after a suspension or revocation pursuant to  
14 Section 13352, 13353, 13353.1, or 13353.2 until all  
15 applicable fees, including the fees prescribed in Section  
16 14905, have been paid and the person gives proof of  
17 financial responsibility, as defined in Section 16430, to the  
18 department.

19 (c) The privilege to operate a motor vehicle shall not  
20 be restored after a suspension or revocation pursuant to  
21 paragraphs (1) to (5), inclusive, of subdivision (a) of  
22 Section 13352 until the person gives proof satisfactory to  
23 the department of completion of a program licensed  
24 pursuant to Chapter 9 (commencing with Section 11836)  
25 of Part 2 of Division 10.5 of the Health and Safety Code.  
26 The program shall be of an appropriate length and scope,  
27 as determined by the number of prior convictions on that  
28 person's record for a violation of Section 23103, as  
29 specified in Section 23103.5, or of Section 23152 or 23153.  
30 The department shall restore the privilege to operate a  
31 motor vehicle after a suspension or revocation pursuant  
32 to paragraphs (1) to (5), inclusive, of subdivision (a) of  
33 Section 13352 upon receipt of a certification, under  
34 penalty of perjury, by the director of a program specified  
35 in Section 8001 of the Penal Code that the person has  
36 completed the program specified in Section 8001 of the  
37 Penal Code.

38 (d) For purposes of this section, completion of a  
39 program is the satisfactory completion of all program  
40 requirements approved pursuant to program licensure,



1 and any other court-imposed conditions, as evidenced by  
2 a certificate of completion issued by the licensed  
3 program.

4 (e) Subdivision (d) does not apply to a person under  
5 the age of 21 years whose driving privilege has been  
6 suspended or revoked pursuant to the order of a court or  
7 pursuant to Section 13353, 13353.1, or 13353.2 for a  
8 violation of subdivision (a) of Section 23136 or of Section  
9 23140.

10 ~~SEC. 27.~~

11 *SEC. 28.* Section 13353.5 of the Vehicle Code is  
12 amended to read:

13 13353.5. (a) Notwithstanding subdivision (c) or (d)  
14 of Section 13353.4, if a person whose driving privilege is  
15 suspended or revoked under Section 13352 or 13352.4 is  
16 a resident of another state at the time the mandatory  
17 period of suspension or revocation expires, the  
18 department may, upon written application of the person,  
19 terminate the suspension or revocation for the purpose of  
20 allowing the person to apply for a license in his or her state  
21 of residence. The application shall include, but not be  
22 limited to, evidence satisfactory to the department that  
23 the applicant now resides in another state.

24 (b) If the person submits an application for a  
25 California driving license within three years after the  
26 date of the action to terminate suspension or revocation  
27 pursuant to subdivision (a), a license shall not be issued  
28 until evidence satisfactory to the department establishes  
29 that the person is qualified for reinstatement and no  
30 grounds exist including, but not limited to, one or more  
31 subsequent convictions for driving or operating a vehicle  
32 while under the influence of alcohol or other drugs, that  
33 would authorize the refusal to issue a license. The  
34 department may waive the three-year requirement upon  
35 receipt of a program completion certificate, as described  
36 in subdivision (c) of Section 13353.4, that has been duly  
37 issued to the individual.

38 ~~SEC. 28.~~

39 *SEC. 29.* Section 13372 of the Vehicle Code is  
40 amended to read:



1 13372. (a) The department shall deny an ambulance  
2 driver certificate if any of the following apply to the  
3 applicant:

4 (1) Is required to register as a sex offender under  
5 Section 290 of the Penal Code for any offense involving  
6 force, violence, threat, or intimidation.

7 (2) Habitually or excessively uses or is addicted to  
8 narcotics or dangerous drugs.

9 (3) Is on parole or probation for any felony, theft, or  
10 any crime involving force, violence, threat, or  
11 intimidation.

12 (b) The department may deny an ambulance driver  
13 certificate if any of the following apply to the applicant:

14 (1) Has been convicted during the preceding seven  
15 years of any offense punishable as a felony or has been  
16 convicted during that period of any theft.

17 (2) Has committed any act involving moral turpitude,  
18 including fraud or intentional dishonesty for personal  
19 gain, within the preceding seven years.

20 (3) Habitually and excessively uses intoxicating  
21 beverages.

22 (4) Has been convicted within the preceding seven  
23 years of any offense relating to the use, sale, possession, or  
24 transportation of narcotics or addictive or dangerous  
25 drugs, or of any misdemeanor involving force, violence,  
26 threat, or intimidation.

27 (5) Is on probation to the department for a cause  
28 involving the unsafe operation of a motor vehicle.

29 (6) Within the three years immediately preceding the  
30 application has had his or her driver's license suspended  
31 or revoked by the department for a cause involving the  
32 unsafe operation of a motor vehicle, or, within the same  
33 period, has been convicted of any of the following:

34 (A) Failing to stop and render aid in an accident  
35 involving injury or death.

36 (B) Driving or operating a vehicle while under the  
37 influence of intoxicating liquor, any drug, or under the  
38 combined influence of intoxicating liquor and any drug.

39 (C) Reckless driving, or reckless driving involving  
40 bodily injury.



1 (7) Has knowingly falsified or failed to disclose a  
2 material fact in his and her application. Applicants  
3 refused certification under this provision shall not be  
4 issued an ambulance driver certificate within 12 months  
5 of that refusal.

6 (8) Has been involved as a driver in any motor vehicle  
7 accident causing death or bodily injury or in three or  
8 more motor vehicle accidents during the preceding  
9 one-year period.

10 (9) Does not meet minimum medical standards  
11 specified in this code or in regulations adopted pursuant  
12 to this code.

13 (10) Has demonstrated irrational behavior or incurred  
14 a physical disability to the extent that a reasonable and  
15 prudent person would have reasonable cause to believe  
16 that the ability to perform the duties normally expected  
17 of an ambulance driver may be impaired.

18 (11) Has violated any provision of this code or any rule  
19 or regulation adopted by the Commissioner of the  
20 California Highway Patrol relating to the operation of  
21 emergency ambulances during the preceding one-year  
22 period.

23 (12) Has committed any act that warrants dismissal, as  
24 provided in Section 13373.

25 (c) The department may revoke or suspend the  
26 ambulance driver certificate of any person who gives any  
27 cause, before or after issuance of the certificate, for either  
28 mandatory or discretionary refusal of certification.

29 ~~SEC. 29.~~

30 *SEC. 30.* Section 13557 of the Vehicle Code is  
31 amended to read:

32 13557. (a) The department shall review the  
33 determination made pursuant to Section 13353, 13353.1,  
34 or 13353.2 relating to any person who has received a  
35 notice of an order of suspension or revocation of the  
36 person's privilege to operate a motor vehicle pursuant to  
37 Section 13353, 13353.1, 13353.2, 23157, or 23158.5. The  
38 department shall consider the sworn report submitted by  
39 the peace officer pursuant to Section 23157 or 23158.2 and  
40 any other evidence accompanying the report.



1 (b) (1) If the department determines in the review of  
2 a determination made under Section 13353 or 13353.1, by  
3 a preponderance of the evidence, all of the following  
4 facts, the department shall sustain the order of suspension  
5 or revocation:

6 (A) That the peace officer had reasonable cause to  
7 believe that the person had been driving or operating a  
8 motor vehicle in violation of Section 23136, 23140, 23152,  
9 or 23153.

10 (B) That the person was placed under arrest or, if the  
11 alleged violation was of Section 23136, that the person was  
12 lawfully detained.

13 (C) That the person refused or failed to complete the  
14 chemical test or tests after being requested by a peace  
15 officer.

16 (D) That, except for the persons described in Section  
17 23157 who are incapable of refusing, the person had been  
18 told that his or her privilege to operate a motor vehicle  
19 would be suspended or revoked if he or she refused to  
20 submit to, and complete, the required testing.

21 If the department determines, by a preponderance of  
22 the evidence, that any of those facts were not proven, the  
23 department shall rescind the order of suspension or  
24 revocation and, provided the person is otherwise eligible,  
25 return or reissue the person's driver's license pursuant to  
26 Section 13551. The determination of the department  
27 upon administrative review is final unless a hearing is  
28 requested pursuant to Section 13558.

29 (2) If the department determines in the review of a  
30 determination made under Section 13353.2, by the  
31 preponderance of the evidence, all of the following facts,  
32 the department shall sustain the order of suspension or  
33 revocation, or if the person is under 21 years of age and  
34 does not yet have a driver's license, the department shall  
35 delay issuance of that license for one year:

36 (A) That the peace officer had reasonable cause to  
37 believe that the person had been driving or operating a  
38 motor vehicle in violation of Section 23136, 23140, 23152,  
39 or 23153.



1 (B) That the person was placed under arrest or, if the  
2 alleged violation was of Section 23136, that the person was  
3 lawfully detained.

4 (C) That the person was driving or operating a motor  
5 vehicle under any of the following circumstances:

6 (i) When the person had 0.08 percent or more, by  
7 weight, of alcohol in his or her blood.

8 (ii) When the person was under the age of 21 years and  
9 had 0.05 percent or more, by weight, of alcohol in his or  
10 her blood.

11 (iii) When the person was under 21 years of age and  
12 had a blood-alcohol concentration of 0.01 percent or  
13 greater, as measured by a preliminary alcohol screening  
14 test, or other chemical test.

15 If the department determines that any of those facts  
16 were not proven by the preponderance of the evidence,  
17 the department shall rescind the order of suspension or  
18 revocation and, provided that the person is otherwise  
19 eligible, return or reissue the person's driver's license  
20 pursuant to Section 13551. For persons under 21 years of  
21 age, the determination of the department pursuant to this  
22 paragraph is final unless a hearing is requested within 10  
23 days of the determination, which hearing shall be  
24 conducted according to the provisions of Section 13558.  
25 For persons over 21 years of age, the determination of the  
26 department upon administrative review is final unless a  
27 hearing is requested pursuant to Section 13558.

28 (c) The department shall make the determination  
29 upon administrative review before the effective date of  
30 the order of suspension or revocation.

31 (d) The administrative review does not stay the  
32 suspension or revocation of a person's privilege to operate  
33 a motor vehicle. If the department is unable to make a  
34 determination on administrative review within the time  
35 limit in subdivision (c), the department shall stay the  
36 effective date of the order of suspension or revocation  
37 pending the determination and, if the person's driver's  
38 license has been taken by the peace officer pursuant to  
39 Section 23137, 23157, or 23158.5, the department shall  
40 notify the person before the expiration date of the



1 temporary permit issued pursuant to Section 23137,  
2 23157, or 23158.5, or the expiration date of any previous  
3 extension issued pursuant to this subdivision, in a form  
4 that permits the person to establish to any peace officer  
5 that his or her privilege to operate a motor vehicle is not  
6 suspended or revoked.

7 (e) A person may request and be granted a hearing  
8 pursuant to Section 13558 without first receiving the  
9 results of an administrative review pursuant to this  
10 section. After receiving a request for a hearing, the  
11 department is not required to conduct an administrative  
12 review of the same matter pursuant to this section.

13 (f) A determination of facts by the department under  
14 this section has no collateral estoppel effect on a  
15 subsequent criminal prosecution and does not preclude  
16 litigation of those same facts in the criminal proceeding.

17 ~~SEC. 30.~~

18 *SEC. 31.* Section 13954 of the Vehicle Code is  
19 amended to read:

20 13954. (a) Notwithstanding any other provision of  
21 this code, the department immediately shall suspend or  
22 revoke the driving privilege of any person who the  
23 department has reasonable cause to believe was in some  
24 manner involved in an accident while driving or  
25 operating a motor vehicle under the following  
26 circumstances at the time of the accident:

27 (1) The person had 0.08 percent or more, by weight,  
28 of alcohol in his or her blood.

29 (2) He or she proximately caused the accident as a  
30 result of any act prohibited, or the neglect of any duty  
31 imposed, by law.

32 (3) The accident occurred within five years of the date  
33 of a violation of paragraph (3) of subdivision (c) of  
34 Section 192 of the Penal Code which resulted in a  
35 conviction.

36 (b) If an accident described in subdivision (a) does not  
37 result in a conviction or finding of violation of Section  
38 23152 or 23153, the department shall suspend the driving  
39 privilege under this section for one year from the date of  
40 commencement of the original suspension. After the



1 one-year suspension period, the driving privilege may be  
2 reinstated if evidence establishes to the satisfaction of the  
3 department that no grounds exist that would authorize  
4 the refusal to issue a license and that reinstatement of the  
5 driving privilege would not jeopardize the safety of the  
6 person or other persons upon the highways, and if the  
7 person gives proof of financial responsibility, as defined  
8 in Section 16430.

9 (c) If an accident described in subdivision (a) does  
10 result in a conviction or finding of a violation of Section  
11 23152 or 23153, the department shall revoke the driving  
12 privilege under this section for three years from the date  
13 of commencement of the original revocation. After the  
14 three-year revocation period, the driving privilege may  
15 be reinstated if evidence establishes to the satisfaction of  
16 the department that no grounds exist that would  
17 authorize the refusal to issue a license and that  
18 reinstatement of the driving privilege would not  
19 jeopardize the safety of the person or other persons upon  
20 the highways, and if the person gives proof of financial  
21 responsibility.

22 (d) Any revocation action under subdivision (c) shall  
23 be imposed as follows:

24 (1) If the accident results in a first conviction of a  
25 violation of Section 23152 or 23153, or if the person was  
26 convicted of a separate violation of Section 23152 or 23153  
27 which occurred within five years of the accident, the  
28 period of revocation under subdivision (c) shall be  
29 concurrent with any period of restriction, suspension, or  
30 revocation imposed under Section 13352 or 13352.5.

31 (2) If the person was convicted of two or more  
32 separate violations of Section 23152 or 23153, or both,  
33 which occurred within five years of the accident, the  
34 period of revocation under subdivision (c) shall be  
35 cumulative and shall be imposed consecutively with any  
36 period of restriction, suspension, or revocation imposed  
37 under Section 13352 or 13352.5.

38 (e) The department immediately shall notify the  
39 person in writing of the action taken and, upon the  
40 person's request in writing and within 15 days from the



1 date of receipt of that request, shall grant the person an  
2 opportunity for a hearing in the same manner and under  
3 the same conditions as provided in Article 3  
4 (commencing with Section 14100) of Chapter 3, except  
5 as otherwise provided in this section. For purposes of this  
6 section, the scope of the hearing shall cover the following  
7 issues:

8 (1) Whether the peace officer had reasonable cause to  
9 believe the person had been driving or operating a motor  
10 vehicle in violation of Section 23152 or 23153.

11 (2) Whether the person had been placed under lawful  
12 arrest.

13 (3) Whether a chemical test of the person's blood,  
14 breath, or urine indicated that the blood-alcohol level was  
15 0.08 percent or more, by weight, at the time of testing.

16 If the department determines, upon a hearing of the  
17 matter, that the person had not been placed under lawful  
18 arrest, or that a chemical test of the person's blood,  
19 breath, or urine did not indicate a blood-alcohol level of  
20 0.08 percent or more, by weight, at the time of testing, the  
21 suspension or revocation shall be terminated  
22 immediately.

23 (f) This section is applicable if the accident occurred  
24 on or after January 1, 1990, without regard for the dates  
25 of the violations referred to in subdivisions (a) and (d).

26 (g) Notwithstanding subdivision (f), if a person's  
27 privilege to operate a motor vehicle is required to be  
28 suspended or revoked pursuant to this section as it read  
29 before January 1, 1990, as a result of an accident which  
30 occurred before January 1, 1990, the privilege shall be  
31 suspended or revoked pursuant to this section as it read  
32 before January 1, 1990.

33 ~~SEC. 31.~~

34 *SEC. 32.* Section 14601.2 of the Vehicle Code is  
35 amended to read:

36 14601.2. (a) No person shall drive a motor vehicle at  
37 any time when that person's driving privilege is  
38 suspended or revoked for a conviction of a violation of  
39 Section 23152 or 23153, if the person so driving has  
40 knowledge of the suspension or revocation.



1 (b) Except in full compliance with the restriction, no  
2 person shall drive a motor vehicle at any time when that  
3 person's driving privilege is restricted pursuant to Article  
4 2 (commencing with Section 23152) of Chapter 12 of  
5 Division 11, if the person so driving has knowledge of the  
6 restriction.

7 (c) Knowledge of suspension or revocation of the  
8 driving privilege shall be conclusively presumed if mailed  
9 notice has been given by the department to the person  
10 pursuant to Section 13106. Knowledge of restriction of the  
11 driving privilege shall be presumed if notice has been  
12 given by the court to the person. The presumption  
13 established by this subdivision is a presumption affecting  
14 the burden of proof.

15 (d) Any person convicted of a violation of this section  
16 shall be punished as follows:

17 (1) Upon a first conviction, by imprisonment in the  
18 county jail for not less than 10 days or more than six  
19 months and by a fine of not less than three hundred  
20 dollars (\$300) or more than one thousand dollars (\$1,000),  
21 unless the person has been designated an habitual traffic  
22 offender under subdivision (b) of Section 23175, in which  
23 case the person shall, in addition, be sentenced as  
24 provided in paragraph (3) of subdivision (e) of Section  
25 14601.3.

26 (2) If the offense occurred within five years of a prior  
27 offense which resulted in a conviction of a violation of this  
28 section or Section 14601, 14601.1, or 14601.5, by  
29 imprisonment in the county jail for not less than 30 days  
30 or more than one year and by a fine of not less than five  
31 hundred dollars (\$500) or more than two thousand dollars  
32 (\$2,000), unless the person has been designated an  
33 habitual traffic offender under subdivision (b) of Section  
34 23175, in which case the person shall, in addition, be  
35 sentenced as provided in paragraph (3) of subdivision (e)  
36 of Section 14601.3.

37 (e) If any person is convicted of a first offense under  
38 this section and is granted probation, the court shall  
39 impose as a condition of probation that the person be  
40 confined in the county jail for at least 10 days.



1 (f) If the offense occurred within five years of a prior  
2 offense which resulted in a conviction of a violation of this  
3 section or Section 14601, 14601.1, or 14601.5 and is granted  
4 probation, the court shall impose as a condition of  
5 probation that the person be confined in the county jail  
6 for at least 30 days.

7 (g) If any person is convicted of a second or  
8 subsequent offense which results in a conviction of this  
9 section within seven years, but over five years, of a prior  
10 offense which resulted in a conviction of a violation of this  
11 section or Section 14601, 14601.1, or 14601.5 and is granted  
12 probation, the court shall impose as a condition of  
13 probation that the person be confined in the county jail  
14 for at least 10 days.

15 (h) Nothing in this section prohibits a person who is  
16 participating in, or has completed, an alcohol or drug  
17 rehabilitation program from driving a motor vehicle,  
18 which is owned or utilized by the person's employer,  
19 during the course of employment on private property  
20 which is owned or utilized by the employer, except an  
21 offstreet parking facility as defined in subdivision (d) of  
22 Section 12500.

23 ~~SEC. 32.~~

24 *SEC. 33.* Section 14601.3 of the Vehicle Code is  
25 amended to read:

26 14601.3. (a) It is unlawful for a person whose driving  
27 privilege has been suspended or revoked to accumulate  
28 a driving record history which results from driving during  
29 the period of suspension or revocation. A person who  
30 violates this subdivision is designated an habitual traffic  
31 offender.

32 For purposes of this section, a driving record history  
33 means any of the following, if the driving occurred during  
34 any period of suspension or revocation:

35 (1) Two or more convictions within a 12-month period  
36 of an offense given a violation point count of two pursuant  
37 to Section 12810.

38 (2) Three or more convictions within a 12-month  
39 period of an offense given a violation point count of one  
40 pursuant to Section 12810.



1 (3) Three or more accidents within a 12-month period  
2 that are subject to the reporting requirements of Section  
3 16000.

4 (4) Any combination of convictions or accidents, as  
5 specified in paragraphs (1) to (3), inclusive, which results  
6 during any 12-month period in a violation point count of  
7 three or more pursuant to Section 12810.

8 (b) Knowledge of suspension or revocation of the  
9 driving privilege shall be conclusively presumed if mailed  
10 notice has been given by the department to the person  
11 pursuant to Section 13106. The presumption established  
12 by this subdivision is a presumption affecting the burden  
13 of proof.

14 (c) The department, within 30 days of receipt of a duly  
15 certified abstract of the record of any court or accident  
16 report which results in a person being designated an  
17 habitual traffic offender, may execute and transmit by  
18 mail a notice of that designation to the office of the district  
19 attorney having jurisdiction over the location of the  
20 person's last known address as contained in the  
21 department's records.

22 (d) (1) The district attorney, within 30 days of  
23 receiving the notice required in subdivision (c), shall  
24 inform the department of whether or not the person will  
25 be prosecuted for being an habitual traffic offender.

26 (2) Notwithstanding any other provision of this  
27 section, any habitual traffic offender designated under  
28 subdivision (b) of Section 23175 who is convicted of  
29 violating Section 14601.2 shall be sentenced as provided  
30 in paragraph (3) of subdivision (e).

31 (e) Any person convicted under this section of being  
32 an habitual traffic offender shall be punished as follows:

33 (1) Upon a first conviction, by imprisonment in the  
34 county jail for 30 days and by a fine of one thousand dollars  
35 (\$1,000).

36 (2) Upon a second or any subsequent offense within  
37 seven years of a prior conviction under this section, by  
38 imprisonment in the county jail for 180 days and by a fine  
39 of two thousand dollars (\$2,000).



1 (3) Any habitual traffic offender designated under  
2 Section 193.7 of the Penal Code or under subdivision (b)  
3 of Section 23175, or subdivision (d) of Section 23190 who  
4 is convicted of a violation of Section 14601.2 shall be  
5 punished by imprisonment in the county jail for 180 days  
6 and by a fine of two thousand dollars (\$2,000). The  
7 penalty in this paragraph shall be consecutive to that  
8 imposed for the violation of any other law.

9 ~~SEC. 33.~~

10 *SEC. 34.* Section 15023 of the Vehicle Code is  
11 amended to read:

12 15023. (a) The licensing authority in the home state,  
13 for the purposes of suspending, revoking, or limiting the  
14 license to operate a motor vehicle, shall give the same  
15 effect to the conduct reported, pursuant to Section 15022  
16 of this compact, as it would if such conduct had occurred  
17 in the home state, in the case of a conviction for:

18 (1) Manslaughter or negligent homicide resulting  
19 from the operation of a motor vehicle.

20 (2) Driving or operating a motor vehicle while under  
21 the influence of intoxicating liquor or a narcotic drug, or  
22 under the influence of any other drug to a degree which  
23 renders the driver incapable of safely driving or  
24 operating a motor vehicle.

25 (3) Any felony in the commission of which a motor  
26 vehicle is used.

27 (4) Failure to stop and render aid in the event of a  
28 motor vehicle accident resulting in the death or personal  
29 injury of another.

30 (b) As to any other conviction, reported pursuant to  
31 Section 15022, the licensing authority in the home state  
32 shall give such effect to the conduct as is provided by the  
33 laws of the home state.

34 (c) If the laws of a party state do not provide for  
35 offenses or violations denominated or described in  
36 precisely the words employed in subdivision (a) of this  
37 section, such party state shall construe the denominations  
38 and descriptions appearing in subdivision (a) hereof as  
39 being applicable to and identifying those offenses or  
40 violations of a substantially similar nature, and the laws of



1 such party state shall contain such provisions as may be  
2 necessary to ensure that full force and effect is given to  
3 this section.

4 ~~SEC. 34.~~

5 *SEC. 35.* Section 15300 of the Vehicle Code is  
6 amended to read:

7 15300. (a) No driver of a commercial motor vehicle  
8 may operate a commercial motor vehicle for a period of  
9 one year if the driver is convicted of a first violation of any  
10 of the following:

11 (1) Driving or operating a commercial motor vehicle  
12 while under the influence of alcohol or a controlled  
13 substance.

14 (2) Leaving the scene of an accident involving a  
15 commercial motor vehicle operated by the driver.

16 (b) If either of the above violations, or a violation listed  
17 in paragraph (2) of subdivision (a) of Section 13350 or  
18 Section 13352 or 13357, occurred while transporting a  
19 hazardous material, the period specified in subdivision  
20 (a) shall be three years.

21 ~~SEC. 35.~~

22 *SEC. 36.* Section 15302 of the Vehicle Code is  
23 amended to read:

24 15302. No driver of a commercial motor vehicle may  
25 operate a commercial motor vehicle for the rest of his or  
26 her life if convicted of more than one violation of any of  
27 the following:

28 (a) Driving or operating a commercial motor vehicle  
29 while under the influence of alcohol or a controlled  
30 substance.

31 (b) Leaving the scene of an accident involving a  
32 commercial motor vehicle operated by the driver.

33 (c) Using a commercial motor vehicle in the  
34 commission of more than one felony arising out of  
35 separate occasions of arrest or citation.

36 (d) Any combination of the above violations.

37 ~~SEC. 36.~~

38 *SEC. 37.* Section 22651 of the Vehicle Code is  
39 amended to read:



1 22651. Any peace officer, as defined in Chapter 4.5  
2 (commencing with Section 830) of Title 3 of Part 2 of the  
3 Penal Code; or any regularly employed and salaried  
4 employee, who is engaged in directing traffic or  
5 enforcing parking laws and regulations, of a city or a  
6 county in which a vehicle is located, may remove a  
7 vehicle located within the territorial limits in which the  
8 officer or employee may act, under any of the following  
9 circumstances:

10 (a) When any vehicle is left unattended upon any  
11 bridge, viaduct, or causeway or in any tube or tunnel  
12 where the vehicle constitutes an obstruction to traffic.

13 (b) When any vehicle is parked or left standing upon  
14 a highway in a position so as to obstruct the normal  
15 movement of traffic or in a condition so as to create a  
16 hazard to other traffic upon the highway.

17 (c) When any vehicle is found upon a highway or any  
18 public lands and a report has previously been made that  
19 the vehicle has been stolen or a complaint has been filed  
20 and a warrant thereon issued charging that the vehicle  
21 has been embezzled.

22 (d) When any vehicle is illegally parked so as to block  
23 the entrance to a private driveway and it is impractical to  
24 move the vehicle from in front of the driveway to another  
25 point on the highway.

26 (e) When any vehicle is illegally parked so as to  
27 prevent access by firefighting equipment to a fire  
28 hydrant and it is impracticable to move the vehicle from  
29 in front of the fire hydrant to another point on the  
30 highway.

31 (f) When any vehicle, except any highway  
32 maintenance or construction equipment, is stopped,  
33 parked, or left standing for more than four hours upon the  
34 right-of-way of any freeway which has full control of  
35 access and no crossings at grade and the driver, if present,  
36 cannot move the vehicle under its own power.

37 (g) When the person or persons in charge of a vehicle  
38 upon a highway or any public lands are, by reason of  
39 physical injuries or illness, incapacitated to an extent so as  
40 to be unable to provide for its custody or removal.



1 (h) (1) When an officer arrests any person driving or  
2 in control of a vehicle for an alleged offense and the  
3 officer is, by this code or other law, required or permitted  
4 to take, and does take, the person into custody.

5 (2) When an officer serves a notice of an order of  
6 suspension or revocation pursuant to Section 23137.

7 (3) *When an officer serves a notice to appear for a*  
8 *violation of subdivision (a) or (b) of Section 23224.*

9 (i) (1) When any vehicle, other than a rented vehicle,  
10 is found upon a highway or any public lands, or is removed  
11 pursuant to this code, and it is known to have been issued  
12 five or more notices of parking violation, to which the  
13 owner or person in control of the vehicle has not  
14 responded within 21 calendar days of notice of citation  
15 issuance or citation issuance or 14 calendar days of a  
16 notice of delinquent parking violation to the agency  
17 responsible for processing notices of parking violation or  
18 the registered owner of the vehicle is known to have been  
19 issued five or more notices for failure to pay or failure to  
20 appear in court for traffic violations for which no  
21 certificate has been issued by the magistrate or clerk of  
22 the court hearing the case showing that the case has been  
23 adjudicated or concerning which the registered owner's  
24 record has not been cleared pursuant to Chapter 6  
25 (commencing with Section 41500) of Division 17, the  
26 vehicle may be impounded until that person furnishes to  
27 the impounding law enforcement agency all of the  
28 following:

29 (A) Evidence of his or her identity.

30 (B) An address within this state at which he or she can  
31 be located.

32 (C) Satisfactory evidence that all parking penalties  
33 due for the vehicle and any other vehicle registered to the  
34 registered owner of the impounded vehicle, and all traffic  
35 violations of the registered owner, have been cleared.

36 (2) The requirements in subparagraph (C) of  
37 paragraph (1) shall be fully enforced by the impounding  
38 law enforcement agency on and after the time that the  
39 Department of Motor Vehicles is able to provide access  
40 to the necessary records.



1 (3) A notice of parking violation issued for an  
2 unlawfully parked vehicle shall be accompanied by a  
3 warning that repeated violations may result in the  
4 impounding of the vehicle. In lieu of furnishing  
5 satisfactory evidence that the full amount of parking  
6 penalties or bail has been deposited, that person may  
7 demand to be taken without unnecessary delay before a  
8 magistrate, for traffic offenses, or a hearing examiner, for  
9 parking offenses, within the county in which the offenses  
10 charged are alleged to have been committed and who has  
11 jurisdiction of the offenses and is nearest or most  
12 accessible with reference to the place where the vehicle  
13 is impounded. Evidence of current registration shall be  
14 produced after a vehicle has been impounded, or, at the  
15 discretion of the impounding law enforcement agency, a  
16 notice to appear for violation of subdivision (a) of Section  
17 4000 shall be issued to that person.

18 (4) A vehicle shall be released to the legal owner, as  
19 defined in Section 370, if the legal owner does all of the  
20 following:

21 (A) Pays the cost of towing and storing the vehicle.

22 (B) Submits evidence of payment of fees as provided  
23 in Section 9561.

24 (C) Completes an affidavit in a form acceptable to the  
25 impounding law enforcement agency stating that the  
26 vehicle was not in possession of the legal owner at the  
27 time of occurrence of the offenses relating to standing or  
28 parking. A vehicle released to a legal owner under this  
29 subdivision is a repossessed vehicle for purposes of  
30 disposition or sale. The impounding agency shall have a  
31 lien on any surplus that remains upon sale of the vehicle  
32 to which the registered owner is or may be entitled, as  
33 security for the full amount of the parking penalties for  
34 all notices of parking violations issued for the vehicle and  
35 for any local administrative charges imposed pursuant to  
36 Section 22850.5. The legal owner shall promptly remit to,  
37 and deposit with, the agency responsible for processing  
38 notices of parking violations from that surplus, on receipt  
39 thereof, full amount of the parking penalties for all  
40 notices of parking violations issued for the vehicle and for



1 any local administrative charges imposed pursuant to  
2 Section 22850.5.

3 (5) The impounding agency that has a lien on the  
4 surplus that remains upon the sale of a vehicle to which  
5 a registered owner is entitled pursuant to paragraph (4)  
6 has a deficiency claim against the registered owner for  
7 the full amount of the parking penalties for all notices of  
8 parking violations issued for the vehicle and for any local  
9 administrative charges imposed pursuant to Section  
10 22850.5, less the amount received from the sale of the  
11 vehicle.

12 (j) When any vehicle is found illegally parked and  
13 there are no license plates or other evidence of  
14 registration displayed, the vehicle may be impounded  
15 until the owner or person in control of the vehicle  
16 furnishes the impounding law enforcement agency  
17 evidence of his or her identity and an address within this  
18 state at which he or she can be located.

19 (k) When any vehicle is parked or left standing upon  
20 a highway for 72 or more consecutive hours in violation  
21 of a local ordinance authorizing removal.

22 (l) When any vehicle is illegally parked on a highway  
23 in violation of any local ordinance forbidding standing or  
24 parking and the use of a highway, or a portion thereof, is  
25 necessary for the cleaning, repair, or construction of the  
26 highway, or for the installation of underground utilities,  
27 and signs giving notice that the vehicle may be removed  
28 are erected or placed at least 24 hours prior to the  
29 removal by local authorities pursuant to the ordinance.

30 (m) Wherever the use of the highway, or any portion  
31 thereof, is authorized by local authorities for a purpose  
32 other than the normal flow of traffic or for the movement  
33 of equipment, articles, or structures of unusual size, and  
34 the parking of any vehicle would prohibit or interfere  
35 with that use or movement, and signs giving notice that  
36 the vehicle may be removed are erected or placed at least  
37 24 hours prior to the removal by local authorities pursuant  
38 to the ordinance.

39 (n) Whenever any vehicle is parked or left standing  
40 where local authorities, by resolution or ordinance, have



1 prohibited parking and have authorized the removal of  
2 vehicles. No vehicle may be removed unless signs are  
3 posted giving notice of the removal.

4 (o) (1) When any vehicle is found upon a highway,  
5 any public lands, or an offstreet parking facility with a  
6 registration expiration date in excess of six months before  
7 the date it is found on the highway, public lands, or the  
8 offstreet parking facility. However, if the vehicle is  
9 occupied, only a peace officer, as defined in Chapter 4.5  
10 (commencing with Section 830) of Title 3 of Part 2 of the  
11 Penal Code, may remove the vehicle. For purposes of this  
12 subdivision, the vehicle shall be released to the owner or  
13 person in control of the vehicle only after the owner or  
14 person furnishes the storing law enforcement agency  
15 with proof of current registration and a currently valid  
16 driver's license to operate the vehicle.

17 (2) As used in this subdivision, "offstreet parking  
18 facility" means any offstreet facility held open for use by  
19 the public for parking vehicles and includes any publicly  
20 owned facilities for offstreet parking, and privately  
21 owned facilities for offstreet parking where no fee is  
22 charged for the privilege to park and which are held open  
23 for the common public use of retail customers.

24 (p) When the peace officer issues the driver of a  
25 vehicle a notice to appear for a violation of Section 12500,  
26 14601, 14601.1, 14601.2, 14601.3, 14601.4, 14601.5, or 14604  
27 and the vehicle has not been impounded pursuant to  
28 Section 22655.5. Any vehicle so removed from the  
29 highway or any public lands, or from private property  
30 after having been on a highway or public lands, shall not  
31 be released to the registered owner or his or her agent,  
32 except upon presentation of the registered owner's or his  
33 or her agent's currently valid driver's license to operate  
34 the vehicle and proof of current vehicle registration, or  
35 upon order of a court.

36 (q) Whenever any vehicle is parked for more than 24  
37 hours on a portion of highway which is located within the  
38 boundaries of a common interest development, as  
39 defined in subdivision (c) of Section 1351 of the Civil  
40 Code, and signs, as required by Section 22658.2, have been



1 posted on that portion of highway providing notice to  
2 drivers that vehicles parked thereon for more than 24  
3 hours will be removed at the owner's expense, pursuant  
4 to a resolution or ordinance adopted by the local  
5 authority.

6 (r) When any vehicle is illegally parked and blocks the  
7 movement of a legally parked vehicle.

8 (s) (1) When any vehicle, except highway  
9 maintenance or construction equipment, an authorized  
10 emergency vehicle, or a vehicle which is properly  
11 permitted or otherwise authorized by the Department of  
12 Transportation, is stopped, parked, or left standing for  
13 more than eight hours within a roadside rest area or  
14 viewpoint.

15 (2) For purposes of this subdivision, a roadside rest  
16 area or viewpoint is a publicly maintained vehicle  
17 parking area, adjacent to a highway, utilized for the  
18 convenient, safe stopping of a vehicle to enable motorists  
19 to rest or to view the scenery. If two or more roadside rest  
20 areas are located on opposite sides of the highway, or  
21 upon the center divider, within seven miles of each other,  
22 then that combination of rest areas is considered to be the  
23 same rest area.

24 *SEC. 38.* Section 23103.5 of the Vehicle Code is  
25 amended to read:

26 23103.5. (a) When the prosecution agrees to a plea of  
27 guilty or nolo contendere to a charge of a violation of  
28 Section 23103 in satisfaction of, or as a substitute for, an  
29 original charge of a violation of Section 23152, the  
30 prosecution shall state for the record a factual basis for the  
31 satisfaction or substitution, including whether or not  
32 there had been consumption of any alcoholic beverage or  
33 ingestion or administration of any drug, or both, by the  
34 defendant in connection with the offense. The statement  
35 shall set forth the facts which show whether or not there  
36 was a consumption of any alcoholic beverage or the  
37 ingestion or administration of any drug by the defendant  
38 in connection with the offense.

39 (b) The court shall advise the defendant, prior to the  
40 acceptance of the plea offered pursuant to a factual



1 statement pursuant to subdivision (a), of the  
2 consequences of a conviction of a violation of Section  
3 23103 as set forth in subdivision (c).

4 (c) If the court accepts the defendant's plea of guilty  
5 or nolo contendere to a charge of a violation of Section  
6 23103 and the prosecutor's statement under subdivision  
7 (a) states that there was consumption of any alcoholic  
8 beverage or the ingestion or administration of any drugs  
9 by the defendant in connection with the offense, the  
10 resulting conviction shall be a prior offense for the  
11 purposes of Section 23165, 23175, 23190, or 23200, as  
12 specified in those sections.

13 (d) The court shall notify the Department of Motor  
14 Vehicles of each conviction of Section 23103 which shall  
15 be a prior offense for purposes of Section 23165, 23175,  
16 23185, 23190, or 23200, as provided in this section.

17 ~~SEC. 37. Section 23136 of the Vehicle Code is~~  
18 ~~amended to read:~~

19 ~~23136. (a) Notwithstanding Sections 23152 and~~  
20 ~~23153, it is unlawful for a person under the age of 21 years~~  
21 ~~who has a blood-alcohol concentration of 0.01 percent or~~  
22 ~~greater, as measured by a preliminary alcohol screening~~  
23 ~~test, to drive or operate a vehicle. However, this section~~  
24 ~~shall not be a bar to prosecution under Section 23152 or~~  
25 ~~23153 or any other provision of law.~~

26 ~~(b) A person shall be found to be in violation of~~  
27 ~~subdivision (a) if the person was, at the time of driving,~~  
28 ~~under the age of 21 years, and the trier of fact finds that~~  
29 ~~the person had consumed an alcoholic beverage and was~~  
30 ~~driving or operating a vehicle when the person had a~~  
31 ~~blood-alcohol concentration of 0.01 percent or greater, as~~  
32 ~~measured by a preliminary alcohol screening test.~~

33 ~~(c) (1) Any person under the age of 21 years who~~  
34 ~~drives or operates a motor vehicle is deemed to have~~  
35 ~~given his or her consent to a preliminary alcohol~~  
36 ~~screening test for the purpose of determining the~~  
37 ~~presence of alcohol in the person, if lawfully detained for~~  
38 ~~an alleged violation of subdivision (a).~~

39 ~~(2) The testing shall be incidental to a lawful detention~~  
40 ~~and administered at the direction of a peace officer~~



1 ~~having reasonable cause to believe the person was driving~~  
2 ~~or operating a motor vehicle in violation of subdivision~~  
3 ~~(a).~~

4 ~~(3) The person shall be told that his or her failure to~~  
5 ~~submit to, or the failure to complete, a preliminary~~  
6 ~~alcohol screening test as requested will result in the~~  
7 ~~suspension or revocation of the person's privilege to~~  
8 ~~operate a motor vehicle for a period of one year to three~~  
9 ~~years, as provided in Section 13353.1.~~

10 ~~SEC. 38. Section 23137 of the Vehicle Code is~~  
11 ~~amended to read:~~

12 ~~23137. (a) If a peace officer lawfully detains a person~~  
13 ~~under 21 years of age who is driving or operating a motor~~  
14 ~~vehicle, and the officer has reasonable cause to believe~~  
15 ~~that the person is in violation of Section 23136, the officer~~  
16 ~~shall request that the person take a preliminary alcohol~~  
17 ~~screening test to determine the presence of alcohol in the~~  
18 ~~person, if a preliminary alcohol screening test device is~~  
19 ~~immediately available.~~

20 ~~(b) If the person refuses to take, or fails to complete,~~  
21 ~~the preliminary alcohol screening test or if the person~~  
22 ~~takes the preliminary alcohol screening test and that test~~  
23 ~~reveals a blood-alcohol concentration of 0.01 percent or~~  
24 ~~greater, the officer shall proceed as follows:~~

25 ~~(1) The officer, acting on behalf of the department,~~  
26 ~~shall serve the person with a notice of an order of~~  
27 ~~suspension of the person's driving privilege.~~

28 ~~(2) The officer shall take possession of any driver's~~  
29 ~~license issued by this state which is held by the person.~~  
30 ~~When the officer takes possession of a valid driver's~~  
31 ~~license, the officer shall issue, on behalf of the~~  
32 ~~department, a temporary driver's license. The temporary~~  
33 ~~driver's license shall be an endorsement on the notice of~~  
34 ~~the order of suspension and shall be valid for 30 days from~~  
35 ~~the date of issuance, or until receipt of the order of~~  
36 ~~suspension from the department, whichever occurs first.~~

37 ~~(3) The officer immediately shall forward a copy of the~~  
38 ~~completed notice of order of suspension form, and any~~  
39 ~~driver's license taken into possession under paragraph~~  
40 ~~(2), with the report required by Section 23158.2, to the~~



1 ~~department. For purposes of this paragraph,~~  
2 ~~“immediately” means on or before the end of the fifth~~  
3 ~~ordinary business day after the notice of order of~~  
4 ~~suspension was served.~~

5 ~~(e) For the purposes of this section, a preliminary~~  
6 ~~alcohol screening test device is an instrument designed~~  
7 ~~and used to measure the presence of alcohol in a person~~  
8 ~~based on a breath sample.~~

9 *SEC. 39. Section 23136 of the Vehicle Code is*  
10 *amended to read:*

11 23136. (a) Notwithstanding Sections 23152 and  
12 23153, it is unlawful for a person under the age of 21 years  
13 who has a blood-alcohol concentration of 0.01 percent or  
14 greater, as measured by a preliminary alcohol screening  
15 test or other chemical test, to drive *or operate* a vehicle.  
16 However, this section shall not be a bar to prosecution  
17 under Section 23152 or 23153 or any other provision of  
18 law.

19 (b) A person shall be found to be in violation of  
20 subdivision (a) if the person was, at the time of driving,  
21 under the age of 21 years, and the trier of fact finds that  
22 the person had consumed an alcoholic beverage and was  
23 driving *or operating* a vehicle ~~with~~ *when the person had*  
24 a blood-alcohol concentration of 0.01 percent or greater,  
25 as measured by a preliminary alcohol screening test or  
26 other chemical test.

27 (c) (1) Any person under the age of 21 years who  
28 drives *or operates* a motor vehicle is deemed to have  
29 given his or her consent to a preliminary alcohol  
30 screening test or other chemical test for the purpose of  
31 determining the presence of alcohol in the person, if  
32 lawfully detained for an alleged violation of subdivision  
33 (a).

34 (2) The testing shall be incidental to a lawful detention  
35 and administered at the direction of a peace officer  
36 having reasonable cause to believe the person was driving  
37 *or operating* a motor vehicle in violation of subdivision  
38 (a).

39 (3) The person shall be told that his or her failure to  
40 submit to, or the failure to complete, a preliminary



1 alcohol screening test or other chemical test as requested  
2 will result in the suspension or revocation of the person's  
3 privilege to operate a motor vehicle for a period of one  
4 year to three years, as provided in Section 13353.1.

5 *SEC. 40. Section 23137 of the Vehicle Code is*  
6 *amended to read:*

7 23137. (a) If a peace officer lawfully detains a  
8 person under 21 years of age who is driving *or operating*  
9 a motor vehicle, and the officer has reasonable cause to  
10 believe that the person is in violation of Section 23136, the  
11 officer shall request that the person take a preliminary  
12 alcohol screening test to determine the presence of  
13 alcohol in the person, if a preliminary alcohol screening  
14 test device is immediately available. If a preliminary  
15 alcohol screening test device is not immediately  
16 available, the officer may request the person to submit to  
17 chemical testing of his or her blood, breath, or urine,  
18 conducted pursuant to Section 23157.

19 (b) If the person refuses to take, or fails to complete,  
20 the preliminary alcohol screening test or refuses to take  
21 or fails to complete a chemical test if a preliminary alcohol  
22 device is not immediately available, or if the person takes  
23 the preliminary alcohol screening test and that test  
24 reveals a blood-alcohol concentration of 0.01 percent or  
25 greater, or if the results of a chemical test reveal a  
26 blood-alcohol concentration of 0.01 percent or greater,  
27 the officer shall proceed as follows:

28 (1) The officer, acting on behalf of the department,  
29 shall serve the person with a notice of an order of  
30 suspension of the person's driving privilege.

31 (2) The officer shall take possession of any driver's  
32 license issued by this state which is held by the person.  
33 When the officer takes possession of a valid driver's  
34 license, the officer shall issue, on behalf of the  
35 department, a temporary driver's license. The temporary  
36 driver's license shall be an endorsement on the notice of  
37 the order of suspension and shall be valid for 30 days from  
38 the date of issuance, or until receipt of the order of  
39 suspension from the department, whichever occurs first.



1 (3) The officer immediately shall forward a copy of the  
2 completed notice of order of suspension form, and any  
3 driver's license taken into possession under paragraph  
4 (2), with the report required by Section 23158.2, to the  
5 department. For purposes of this paragraph,  
6 "immediately" means on or before the end of the fifth  
7 ordinary business day after the notice of order of  
8 suspension was served.

9 (c) For the purposes of this section, a preliminary  
10 alcohol screening test device is an instrument designed  
11 and used to measure the presence of alcohol in a person  
12 based on a breath sample.

13 ~~SEC. 39.~~

14 *SEC. 41.* Section 23140 of the Vehicle Code is  
15 amended to read:

16 23140. (a) It is unlawful for a person under the age of  
17 21 years who has 0.05 percent or more, by weight, of  
18 alcohol in his or her blood to drive or operate a vehicle.

19 (b) A person may be found to be in violation of  
20 subdivision (a) if the person was, at the time of driving or  
21 operating, under the age of 21 years and under the  
22 influence of, or affected by, an alcoholic beverage  
23 regardless of whether a chemical test was made to  
24 determine that person's blood-alcohol concentration and  
25 if the trier of fact finds that the person had consumed an  
26 alcoholic beverage and was driving or operating a vehicle  
27 while having a concentration of 0.05 percent or more, by  
28 weight, of alcohol in his or her blood.

29 (c) Notwithstanding any provision of law to the  
30 contrary, upon a finding that a person has violated this  
31 section, the clerk of the court, or judge if there is no clerk,  
32 shall prepare within 10 days after the finding and  
33 immediately forward to the department an abstract of  
34 the record of the court in which the finding is made. That  
35 abstract shall be a public record and available for public  
36 inspection in the same manner as other records reported  
37 under Section 1803.

38 ~~SEC. 40.~~



1 SEC. 42. Section 23152 of the Vehicle Code, as  
2 amended by Section 31 of Chapter 455 of the Statutes of  
3 1995, is amended to read:

4 23152. (a) It is unlawful for any person who is under  
5 the influence of any alcoholic beverage or drug, or under  
6 the combined influence of any alcoholic beverage and  
7 drug, to drive or operate a vehicle.

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

11 For purposes of this article and Section 34501.16,  
12 percent, by weight, of alcohol in a person's blood is based  
13 upon grams of alcohol per 100 milliliters of blood or grams  
14 of alcohol per 210 liters of breath.

15 In any prosecution under this subdivision, it is a  
16 rebuttable presumption that the person had 0.08 percent  
17 or more, by weight, of alcohol in his or her blood at the  
18 time of driving or operating the vehicle if the person had  
19 0.08 percent or more, by weight, of alcohol in his or her  
20 blood at the time of the performance of a chemical test  
21 within three hours after the driving or operating.

22 (c) It is unlawful for any person who is addicted to the  
23 use of any drug to drive or operate a vehicle. This  
24 subdivision shall not apply to a person who is participating  
25 in a narcotic treatment program approved pursuant to  
26 Article 3 (commencing with Section 11875) of Chapter 1  
27 of Part 3 of Division 10.5 of the Health and Safety Code.

28 (d) It is unlawful for any person who has 0.04 percent  
29 or more, by weight, of alcohol in his or her blood to drive  
30 or operate a commercial motor vehicle, as defined in  
31 Section 15210.

32 In any prosecution under this subdivision, it is a  
33 rebuttable presumption that the person had 0.04 percent  
34 or more, by weight, of alcohol in his or her blood at the  
35 time of driving or operating the vehicle if the person had  
36 0.04 percent or more, by weight, of alcohol in his or her  
37 blood at the time of the performance of a chemical test  
38 within three hours after the driving or operating.

39 (e) This section shall become operative on January 1,  
40 1992, and shall remain operative until the director



1 determines that federal regulations adopted pursuant to  
2 the Commercial Motor Vehicle Safety Act of 1986 (49  
3 U.S.C. Sec. 2701 et seq.) contained in Section 383.51 or  
4 391.15 of Title 49 of the Code of Federal Regulations do  
5 not require the state to prohibit operation of commercial  
6 vehicles when the operator has a concentration of alcohol  
7 in his or her blood of 0.04 percent by weight or more.

8 (f) The director shall submit a notice of the  
9 determination under subdivision (e) to the Secretary of  
10 State, and this section shall be repealed upon the receipt  
11 of that notice by the Secretary of State.

12 ~~SEC. 41.~~

13 *SEC. 43.* Section 23152 of the Vehicle Code, as  
14 amended by Section 32 of Chapter 455 of the Statutes of  
15 1995, is amended to read:

16 23152. (a) It is unlawful for any person who is under  
17 the influence of any alcoholic beverage or drug, or under  
18 the combined influence of any alcoholic beverage and  
19 drug, to drive or operate a vehicle.

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

23 For purposes of this article and Section 34501.16,  
24 percent, by weight, of alcohol in a person's blood is based  
25 upon grams of alcohol per 100 milliliters of blood or grams  
26 of alcohol per 210 liters of breath.

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

34 (c) It is unlawful for any person who is addicted to the  
35 use of any drug to drive or operate a vehicle. This  
36 subdivision shall not apply to a person who is participating  
37 in a narcotic treatment program approved pursuant to  
38 Article 3 (commencing with Section 11875) of Chapter 1  
39 of Part 3 of Division 10.5 of the Health and Safety Code.



1 (d) This section shall become operative only upon the  
2 receipt by the Secretary of State of the notice specified in  
3 subdivision (f) of Section 23152, as added by Section 25 of  
4 Chapter 1114 of the Statutes of 1989.

5 ~~SEC. 42.~~

6 SEC. 44. Section 23153 of the Vehicle Code, as  
7 amended by Section 18 of Chapter 974 of the Statutes of  
8 1992, is amended to read:

9 23153. (a) It is unlawful for any person, while under  
10 the influence of any alcoholic beverage or drug, or under  
11 the combined influence of any alcoholic beverage and  
12 drug, to drive or operate a vehicle and concurrently do  
13 any act forbidden by law, or neglect any duty imposed by  
14 law in driving or operating the vehicle, which act or  
15 neglect proximately causes bodily injury to any person  
16 other than the driver.

17 (b) It is unlawful for any person, while having 0.08  
18 percent or more, by weight, of alcohol in his or her blood  
19 to drive or operate a vehicle and concurrently do any act  
20 forbidden by law, or neglect any duty imposed by law in  
21 driving or operating the vehicle, which act or neglect  
22 proximately causes bodily injury to any person other than  
23 the driver.

24 In any prosecution under this subdivision, it is a  
25 rebuttable presumption that the person had 0.08 percent  
26 or more, by weight, of alcohol in his or her blood at the  
27 time of driving or operating the vehicle if the person had  
28 0.08 percent or more, by weight, of alcohol in his or her  
29 blood at the time of the performance of a chemical test  
30 within three hours after driving or operating.

31 (c) In proving the person neglected any duty imposed  
32 by law in driving or operating the vehicle, it is not  
33 necessary to prove that any specific section of this code  
34 was violated.

35 (d) It is unlawful for any person, while having 0.04  
36 percent or more, by weight, of alcohol in his or her blood  
37 to drive or operate a commercial motor vehicle, as  
38 defined in Section 15210, and concurrently to do any act  
39 forbidden by law or neglect any duty imposed by law in  
40 driving or operating the vehicle, which act or neglect



1 proximately causes bodily injury to any person other than  
2 the driver.

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

10 (e) This section shall become operative on January 1,  
11 1992, and shall remain operative until the director  
12 determines that federal regulations adopted pursuant to  
13 the Commercial Motor Vehicle Act of 1986 (49 U.S.C. Sec.  
14 2701 et seq.) contained in Section 383.51 or 391.15 of Title  
15 49 of the Code of Federal Regulations do not require the  
16 state to prohibit operation of commercial vehicles when  
17 the operator has a concentration of alcohol in his or her  
18 blood of 0.04 percent by weight or more.

19 (f) The director shall submit a notice of the  
20 determination under subdivision (e) to the Secretary of  
21 State, and this section shall be repealed upon the receipt  
22 of that notice by the Secretary of State.

23 ~~SEC. 43.~~

24 *SEC. 45.* Section 23153 of the Vehicle Code, as  
25 amended by Section 19 of Chapter 974 of the Statutes of  
26 1992, is amended to read:

27 23153. (a) It is unlawful for any person, while under  
28 the influence of any alcoholic beverage or drug, or under  
29 the combined influence of any alcoholic beverage and  
30 drug, to drive or operate a vehicle and concurrently do  
31 any act forbidden by law or neglect any duty imposed by  
32 law in driving or operating the vehicle, which act or  
33 neglect proximately causes bodily injury to any person  
34 other than the driver.

35 (b) It is unlawful for any person, while having 0.08  
36 percent or more, by weight, of alcohol in his or her blood  
37 to drive or operate a vehicle and concurrently do any act  
38 forbidden by law or neglect any duty imposed by law in  
39 driving or operating the vehicle, which act or neglect



1 proximately causes bodily injury to any person other than  
2 the driver.

3 In any prosecution under this subdivision, it is a  
4 rebuttable presumption that the person had 0.08 percent  
5 or more, by weight, of alcohol in his or her blood at the  
6 time of driving or operating the vehicle if the person had  
7 0.08 percent or more, by weight, of alcohol in his or her  
8 blood at the time of the performance of a chemical test  
9 within three hours after driving or operating.

10 (c) In proving the person neglected any duty imposed  
11 by law in driving or operating the vehicle, it is not  
12 necessary to prove that any specific section of this code  
13 was violated.

14 (d) This section shall become operative only upon the  
15 receipt by the Secretary of State of the notice specified in  
16 subdivision (f) of Section 23153, as added by Section 30 of  
17 Chapter 1114 of the Statutes of 1989.

18 ~~SEC. 44.~~

19 *SEC. 46.* Section 23155 of the Vehicle Code, as  
20 amended by Section 3 of Chapter 278 of the Statutes of  
21 1992, is amended to read:

22 23155. (a) Upon the trial of any criminal action, or  
23 preliminary proceeding in a criminal action, arising out  
24 of acts alleged to have been committed by any person  
25 while driving or operating a vehicle while under the  
26 influence of an alcoholic beverage in violation of  
27 subdivision (a) of Section 23152 or subdivision (a) of  
28 Section 23153, the amount of alcohol in the person's blood  
29 at the time of the test as shown by chemical analysis of  
30 that person's blood, breath, or urine shall give rise to the  
31 following presumptions affecting the burden of proof:

32 (1) If there was at that time less than 0.05 percent by  
33 weight of alcohol in the person's blood, it shall be  
34 presumed that the person was not under the influence of  
35 an alcoholic beverage at the time of the alleged offense.

36 (2) If there was at that time 0.05 percent or more but  
37 less than 0.08 percent by weight of alcohol in the person's  
38 blood, that fact shall not give rise to any presumption that  
39 the person was or was not under the influence of an  
40 alcoholic beverage, but the fact may be considered with



1 other competent evidence in determining whether the  
2 person was under the influence of an alcoholic beverage  
3 at the time of the alleged offense.

4 (3) If there was at that time 0.08 percent or more by  
5 weight of alcohol in the person's blood, it shall be  
6 presumed that the person was under the influence of an  
7 alcoholic beverage at the time of the alleged offense.

8 (b) Percent by weight of alcohol in the person's blood  
9 shall be based upon grams of alcohol per 100 milliliters of  
10 blood or grams of alcohol per 210 liters of breath.

11 (c) This section shall not be construed as limiting the  
12 introduction of any other competent evidence bearing  
13 upon the question whether the person ingested any  
14 alcoholic beverage or was under the influence of an  
15 alcoholic beverage at the time of the alleged offense.

16 ~~SEC. 45.~~

17 *SEC. 47.* Section 23157 of the Vehicle Code, as  
18 amended by Section 17 of Chapter 938 of the Statutes of  
19 1994, is amended to read:

20 23157. (a) (1) Any person who drives or operates a  
21 motor vehicle is deemed to have given his or her consent  
22 to chemical testing of his or her blood, breath, or urine for  
23 the purpose of determining the alcoholic content of his or  
24 her blood, and to have given his or her consent to  
25 chemical testing of his or her blood or urine for the  
26 purpose of determining the drug content of his or her  
27 blood, if lawfully arrested for any offense allegedly  
28 committed in violation of Section 23140, 23152, or 23153.  
29 The testing shall be incidental to a lawful arrest and  
30 administered at the direction of a peace officer having  
31 reasonable cause to believe the person was driving or  
32 operating a motor vehicle in violation of Section 23140,  
33 23152, or 23153. The person shall be told that his or her  
34 failure to submit to, or the failure to complete, the  
35 required chemical testing will result in a fine, mandatory  
36 imprisonment if the person is convicted of a violation of  
37 Section 23152 or 23153, and (A) the suspension of the  
38 person's privilege to operate a motor vehicle for a period  
39 of one year, (B) the revocation of the person's privilege  
40 to operate a motor vehicle for a period of two years if the



1 refusal occurs within seven years of a separate violation  
 2 of Section 23103 as specified in Section 23103.5, or of  
 3 Section 23140, 23152, or 23153, or of Section 191.5 or  
 4 paragraph (3) of subdivision (c) of Section 192 of the  
 5 Penal Code which resulted in a conviction, or if the  
 6 person's privilege to operate a motor vehicle has been  
 7 suspended or revoked pursuant to Section 13353, 13353.1,  
 8 or 13353.2 for an offense which occurred on a separate  
 9 occasion, or (C) the revocation of the person's privilege  
 10 to operate a motor vehicle for a period of three years if  
 11 the refusal occurs within seven years of two or more  
 12 separate violations of Section 23103 as specified in Section  
 13 23103.5, or of Section 23140, 23152, or 23153, or of Section  
 14 191.5 or paragraph (3) of subdivision (c) of Section 192 of  
 15 the Penal Code, or any combination thereof, which  
 16 resulted in convictions, or if the person's privilege to  
 17 operate a motor vehicle has been suspended or revoked  
 18 two or more times pursuant to Section 13353, 13353.1, or  
 19 13353.2 for offenses which occurred on separate  
 20 occasions, or if there is any combination of those  
 21 convictions or administrative suspensions or revocations.

22 (2) (A) If the person is lawfully arrested for driving or  
 23 operating a vehicle while under the influence of an  
 24 alcoholic beverage, the person has the choice of whether  
 25 the test shall be of his or her blood, breath, or urine, and  
 26 the officer shall advise the person that he or she has that  
 27 choice. If the person arrested either is incapable, or states  
 28 that he or she is incapable, of completing any chosen test,  
 29 the person shall submit to the person's choice of the  
 30 remaining tests or test, and the officer shall advise the  
 31 person that the person has that choice.

32 (B) If the person is lawfully arrested for driving or  
 33 operating a vehicle while under the influence of any drug  
 34 or the combined influence of an alcoholic beverage and  
 35 any drug, the person has the choice of whether the test  
 36 shall be of his or her blood, breath, or urine, and the  
 37 officer shall advise the person that he or she has that  
 38 choice.

39 (C) A person who chooses to submit to a breath test  
 40 may also be requested to submit to a blood or urine test



1 if the officer has reasonable cause to believe that the  
2 person was driving or operating a vehicle while under the  
3 influence of any drug or the combined influence of an  
4 alcoholic beverage and any drug and if the officer has a  
5 clear indication that a blood or urine test will reveal  
6 evidence of the person being under the influence. The  
7 officer shall state in his or her report the facts upon which  
8 that belief and that clear indication are based. The person  
9 has the choice of submitting to and completing a blood or  
10 urine test, and the officer shall advise the person that he  
11 or she is required to submit to an additional test and that  
12 he or she may choose a test of either blood or urine. If the  
13 person arrested either is incapable, or states that he or she  
14 is incapable, of completing either chosen test, the person  
15 shall submit to and complete the other remaining test.

16 (3) If the person is lawfully arrested for an offense  
17 allegedly committed in violation of Section 23140, 23152,  
18 or 23153, and, because of the need for medical treatment,  
19 the person is first transported to a medical facility where  
20 it is not feasible to administer a particular test of, or to  
21 obtain a particular sample of, the person's blood, breath,  
22 or urine, the person has the choice of those tests which are  
23 available at the facility to which that person has been  
24 transported. In that case, the officer shall advise the  
25 person of those tests which are available at the medical  
26 facility and that the person's choice is limited to those  
27 tests which are available.

28 (4) The officer shall also advise the person that he or  
29 she does not have the right to have an attorney present  
30 before stating whether he or she will submit to a test or  
31 tests, before deciding which test or tests to take, or during  
32 administration of the test or tests chosen, and that, in the  
33 event of refusal to submit to a test or tests, the refusal may  
34 be used against him or her in a court of law.

35 (5) Any person who is unconscious or otherwise in a  
36 condition rendering him or her incapable of refusal is  
37 deemed not to have withdrawn his or her consent and a  
38 test or tests may be administered whether or not the  
39 person is told that his or her failure to submit to, or the  
40 noncompletion of, the test or tests will result in the



1 suspension or revocation of his or her privilege to operate  
2 a motor vehicle. Any person who is dead is deemed not  
3 to have withdrawn his or her consent and a test or tests  
4 may be administered at the direction of a peace officer.

5 (b) Any person who is afflicted with hemophilia is  
6 exempt from the blood test required by this section.

7 (c) Any person who is afflicted with a heart condition  
8 and is using an anticoagulant under the direction of a  
9 licensed physician and surgeon is exempt from the blood  
10 test required by this section.

11 (d) A person lawfully arrested for any offense  
12 allegedly committed while the person was driving or  
13 operating a motor vehicle in violation of Section 23140,  
14 23152, or 23153 may request the arresting officer to have  
15 a chemical test made of the arrested person's blood,  
16 breath, or urine for the purpose of determining the  
17 alcoholic content of that person's blood, and, if so  
18 requested, the arresting officer shall have the test  
19 performed.

20 (e) If the person, who has been arrested for a violation  
21 of Section 23140, 23152, or 23153, refuses or fails to  
22 complete a chemical test or tests, or requests that a blood  
23 or urine test be taken, the peace officer, acting on behalf  
24 of the department, shall serve the notice of the order of  
25 suspension or revocation of the person's privilege to  
26 operate a motor vehicle personally on the arrested  
27 person. The notice shall be on a form provided by the  
28 department.

29 (f) If the peace officer serves the notice of the order  
30 of suspension or revocation of the person's privilege to  
31 operate a motor vehicle, the peace officer shall take  
32 possession of any driver's license issued by this state which  
33 is held by the person. The temporary driver's license shall  
34 be an endorsement on the notice of the order of  
35 suspension and shall be valid for 30 days from the date of  
36 arrest.

37 (g) The peace officer shall immediately forward a  
38 copy of the completed notice of suspension or revocation  
39 form and any driver's license taken into possession under  
40 subdivision (f), with the report required by Section



1 23158.2, to the department. If the person submitted to a  
2 blood or urine test, the peace officer shall forward the  
3 results immediately to the appropriate forensic  
4 laboratory. The forensic laboratory shall forward the  
5 results of the chemical tests to the department within 15  
6 calendar days of the date of the arrest.

7 (h) A preliminary alcohol screening test that indicates  
8 the presence or concentration of alcohol based on a  
9 breath sample in order to establish reasonable cause to  
10 believe the person was driving or operating a vehicle in  
11 violation of Section 23140, 23152, or 23153 may be used  
12 only after the officer evaluates the totality of the  
13 circumstances, including the person's performance on  
14 the field sobriety tests and under both of the following  
15 conditions:

16 (1) If a person refuses to take field sobriety tests or is  
17 incapable of taking the tests, the preliminary alcohol  
18 screening test may be used as a further investigative tool,  
19 unless the person refuses to take the preliminary alcohol  
20 screening test.

21 (2) If the officer decides to use a preliminary alcohol  
22 screening test, the officer shall advise the person that he  
23 or she is requesting that person to take a preliminary  
24 alcohol screening test to assist the officer in determining  
25 if that person is under the influence of alcohol. The  
26 person's obligation to submit to a blood, breath, or urine  
27 test, as required by this section, for the purpose of  
28 determining the alcohol or drug content of that person's  
29 blood, is not satisfied by the person submitting to a  
30 preliminary alcohol screening test. The officer shall  
31 advise the person of that fact and of the person's right to  
32 refuse to take the preliminary alcohol screening test.

33 ~~SEC. 46.—~~

34 *SEC. 48. Section 23158.2 of the Vehicle Code is*  
35 *amended to read:*

36 23158.2. (a) If a peace officer serves a notice of an  
37 order of suspension pursuant to Section 23137, or arrests  
38 any person for a violation of Section 23140, 23152, or 23153,  
39 the peace officer shall immediately forward to the  
40 department a sworn report of all information relevant to



1 the enforcement action, including information which  
2 adequately identifies the person, a statement of the  
3 officer's grounds for belief that the person violated  
4 Section 23136, 23140, 23152, or 23153, a *an unsworn* report  
5 of the results of any chemical tests which were conducted  
6 on the person or the circumstances constituting a refusal  
7 to submit to or complete the chemical testing pursuant to  
8 Section 23137 or 23157, a copy of any notice to appear  
9 under which the person was released from custody, and,  
10 if immediately available, a copy of the complaint filed  
11 with the court. For purposes of this section and  
12 subdivision (g) of Section 23157, "immediately" means on  
13 or before the end of the fifth ordinary business day  
14 following the arrest, except that with respect to Section  
15 23137 only, "immediately" has the same meaning as  
16 defined in paragraph (3) of subdivision (b) of Section  
17 23137.

18 (b) The peace officer's sworn report shall be made on  
19 forms furnished or approved by the department.

20 (c) For purposes of this section, a report prepared  
21 pursuant to subdivision (a) and received pursuant to  
22 subdivision (a) of Section 1801, is a sworn report when it  
23 bears an entry identifying the maker of the document or  
24 a signature that has been affixed by means of an  
25 electronic device approved by the department.

26 (d) *In amending subdivision (a), it is the intent of the*  
27 *Legislature to abrogate the holdings in Wheeler v.*  
28 *Department of Motor Vehicles (1994), 34 Cal. App. 4th*  
29 *228 and Downer v. Zolin (1995), 34 Cal. App. 4th 578,*  
30 *insofar as those decisions interpreted subdivision (a) to*  
31 *require reports of the results of chemical tests to be*  
32 *sworn.*

33 SEC. 49. Section 23159 of the Vehicle Code is  
34 amended to read:

35 23159. (a) If any person is convicted of a violation of  
36 Section 23152 or 23153, and at the time of the arrest  
37 leading to that conviction that person willfully refused a  
38 peace officer's request to submit to, or willfully failed to  
39 complete, the chemical test or tests pursuant to Section  
40 23157, the court shall impose the following penalties:



1 (1) If the person is convicted of a first violation of  
2 Section 23152, notwithstanding any other provision of  
3 subdivision (a) of Section 23161, the terms and conditions  
4 of probation shall include the conditions in paragraph (1)  
5 of subdivision (a) of Section 23161.

6 (2) If the person is convicted of a first violation of  
7 Section 23153, the punishment prescribed in this article  
8 shall be enhanced by an imprisonment of 48 continuous  
9 hours in the county jail, whether or not probation is  
10 granted and no part of which may be stayed, unless the  
11 person is sentenced to, and incarcerated in, the state  
12 prison and the execution of that sentence is not stayed.

13 (3) If the person is convicted of a second violation of  
14 Section 23152, punishable under Section 23165, the  
15 punishment prescribed in this article shall be enhanced  
16 by an imprisonment of 96 hours in the county jail,  
17 whether or not probation is granted and no part of which  
18 may be stayed, unless the person is sentenced to, and  
19 incarcerated in, the state prison and execution of that  
20 sentence is not stayed.

21 (4) If the person is convicted of a third or subsequent  
22 violation of Section 23152, punishable under Section  
23 23175, the punishment prescribed in this article shall be  
24 enhanced by imprisonment of 18 days in the county jail,  
25 whether or not probation is granted and no part of which  
26 may be stayed.

27 (b) The willful refusal or failure to complete the  
28 chemical test required pursuant to Section 23157 shall be  
29 pled and proven.

30 ~~SEC. 47.~~

31 *SEC. 50.* Section 23165 of the Vehicle Code is  
32 amended to read:

33 23165. If any person is convicted of a violation of  
34 Section 23152 and the offense occurred after a separate  
35 violation of Section 23103 as specified in Section 23103.5  
36 which occurred on or after January 1, 1982, 23152, or  
37 23153, which resulted in a conviction, that person shall be  
38 punished by imprisonment in the county jail for not less  
39 than 90 days nor more than one year, or by imprisonment  
40 in the state prison, and by a fine of not less than three



1 hundred ninety dollars (\$390) nor more than one  
2 thousand dollars (\$1,000). The person's privilege to  
3 operate a motor vehicle shall be suspended by the  
4 Department of Motor Vehicles pursuant to paragraph (3)  
5 of subdivision (a) of Section 13352.

6 ~~SEC. 48.~~

7 *SEC. 51.* Section 23166 of the Vehicle Code is  
8 amended to read:

9 23166. If the court grants probation to any person  
10 punished under Section 23165, in addition to the  
11 provisions of Section 23206 and any other terms and  
12 conditions imposed by the court, the court shall impose  
13 as conditions of probation that the person be subject to  
14 either subdivision (a) or (b), as follows:

15 (a) Be confined in the county jail for at least 10 days  
16 but not more than one year, and pay a fine of at least three  
17 hundred ninety dollars (\$390) but not more than one  
18 thousand dollars (\$1,000). The person's privilege to  
19 operate a motor vehicle shall be suspended by the  
20 Department of Motor Vehicles pursuant to paragraph (3)  
21 of subdivision (a) of Section 13352.

22 (b) All of the following:

23 (1) Be confined in the county jail for at least 48 hours  
24 but not more than one year.

25 (2) Pay a fine of at least three hundred ninety dollars  
26 (\$390) but not more than one thousand dollars (\$1,000).

27 (3) If the person gives proof of financial responsibility,  
28 as defined in Section 16430, to the Department of Motor  
29 Vehicles, have the privilege to operate a motor vehicle be  
30 restricted by the Department of Motor Vehicles pursuant  
31 to Section 13352.5, for the duration of the treatment  
32 program prescribed in paragraph (4), to necessary travel  
33 to and from that person's place of employment and to and  
34 from the applicable treatment program described in  
35 paragraph (4). If driving a motor vehicle is necessary to  
36 perform the duties of the person's employment, the  
37 restriction also shall allow the person to drive in that  
38 person's scope of employment.

39 Except as is specified in subparagraph (B) of paragraph  
40 (4), if the person gives proof of financial responsibility to



1 the Department of Motor Vehicles, the Department of  
2 Motor Vehicles shall not suspend the person's privilege to  
3 operate a motor vehicle under Section 13352, as provided  
4 in Section 13352.5, unless the offense occurred in a vehicle  
5 requiring a driver with a class A or class B driver's license  
6 or with an endorsement prescribed in Section 15278.

7 (4) Either of the following:

8 (A) Participate, for at least 18 months subsequent to  
9 the underlying conviction and in a manner satisfactory to  
10 the court, in a program licensed pursuant to Chapter 9  
11 (commencing with Section 11836) of Part 2 of Division  
12 10.5 of the Health and Safety Code, as designated by the  
13 court. The program shall provide for persons who cannot  
14 afford the program fee pursuant to paragraph (2) of  
15 subdivision (b) of Section 11837.4 of the Health and Safety  
16 Code in order to enable those persons to participate.

17 (B) Participate, for at least 30 months subsequent to  
18 the underlying conviction and in a manner satisfactory to  
19 the court, in a program licensed pursuant to Chapter 9  
20 (commencing with Section 11836) of Part 2 of Division  
21 10.5 of the Health and Safety Code. A person ordered to  
22 treatment pursuant to this subparagraph shall apply to  
23 the court or to a board of review, as designated by the  
24 court, at the conclusion of the program to obtain the  
25 court's order of satisfaction. Only upon the granting of  
26 that order of satisfaction by the court may the program  
27 issue its certificate of successful completion and report  
28 the completion to the Department of Motor Vehicles. A  
29 failure to obtain an order of satisfaction at the conclusion  
30 of the program is a violation of probation. In order to  
31 enable all required persons to participate, each person  
32 shall pay the program costs commensurate with the  
33 person's ability to pay as determined pursuant to Section  
34 11837.4 of the Health and Safety Code. No condition of  
35 probation required pursuant to this subparagraph is a  
36 basis for reducing any other probation requirement.

37 ~~SEC. 49.~~

38 *SEC. 52.* Section 23170 of the Vehicle Code is  
39 repealed.

40 ~~SEC. 50.~~

1 SEC. 53. Section 23171 of the Vehicle Code is  
2 repealed.

3 ~~SEC. 54.~~

4 SEC. 54. Section 23175 of the Vehicle Code is  
5 amended to read:

6 23175. (a) If any person is convicted of a violation of  
7 Section 23152 and the offense occurred after two or more  
8 separate violations of Section 23103, as specified in  
9 Section 23103.5, or Section 23152 or 23153, or any  
10 combination thereof, which resulted in convictions, that  
11 person shall be punished by imprisonment in the state  
12 prison for three, four, or five years and by a fine of not less  
13 than three hundred ninety dollars (\$390) nor more than  
14 one thousand dollars (\$1,000). The person's privilege to  
15 operate a motor vehicle shall be revoked by the  
16 Department of Motor Vehicles pursuant to paragraph (5)  
17 of subdivision (a) of Section 13352.

18 (b) Any person convicted of a violation of Section  
19 23152 punishable under this section shall be designated as  
20 an habitual traffic offender for a period of three years,  
21 subsequent to the conviction. The person shall be advised  
22 of this designation pursuant to subdivision (b) of Section  
23 13350.

24 ~~SEC. 52.~~

25 SEC. 55. Section 23176 of the Vehicle Code is  
26 amended to read:

27 23176. (a) If the court grants probation to any person  
28 punished under Section 23175, in addition to the  
29 provisions of Section 23206 and any other terms and  
30 conditions imposed by the court, the court shall impose  
31 as conditions of probation that the person be confined in  
32 the county jail for at least 180 days but not more than one  
33 year and pay a fine of at least three hundred ninety dollars  
34 (\$390) but not more than one thousand dollars (\$1,000).  
35 The person's privilege to operate a motor vehicle shall be  
36 revoked by the Department of Motor Vehicles pursuant  
37 to paragraph (5) of subdivision (a) of Section 13352.

38 (b) In addition to subdivision (a), if the court grants  
39 probation to any person punished under Section 23175,  
40 the court may, in its discretion, order as a condition of



1 probation that the person participate, for at least 30  
2 months subsequent to the underlying conviction and in  
3 a manner satisfactory to the court, in a program licensed  
4 pursuant to Chapter 9 (commencing with Section 11836)  
5 of Part 2 of Division 10.5 of the Health and Safety Code.  
6 In lieu of the minimum term of imprisonment in  
7 subdivision (a), the court shall impose as a condition of  
8 probation under this subdivision that the person be  
9 confined in the county jail for at least 30 days but not more  
10 than one year. The court shall not order the treatment  
11 prescribed by this subdivision unless the person makes a  
12 specific request and shows good cause for the order,  
13 whether or not the person has previously completed a  
14 treatment program pursuant to paragraph (4) of  
15 subdivision (b) of Section 23166. A person ordered to  
16 treatment pursuant to this subdivision shall apply to the  
17 court or to a board of review, as designated by the court,  
18 at the conclusion of the program to obtain the court's  
19 order of satisfaction. Only upon the granting of that order  
20 of satisfaction by the court may the program issue its  
21 certificate of successful completion and report the  
22 completion to the Department of Motor Vehicles. A  
23 failure to obtain an order of satisfaction at the conclusion  
24 of the program is a violation of probation. In order to  
25 enable all required persons to participate, each person  
26 shall pay the program costs commensurate with the  
27 person's ability to pay as determined pursuant to Section  
28 11837.4 of the Health and Safety Code. No condition of  
29 probation required pursuant to this subdivision is a basis  
30 for reducing any other probation requirement in this  
31 section or Section 23206 or for avoiding the mandatory  
32 license revocation provisions of paragraph (5) of  
33 subdivision (a) of Section 13352.

34 (c) In addition to the provisions of Section 23206 and  
35 subdivision (a), if the court grants probation to any  
36 person punished under Section 23175 who has not  
37 previously completed a treatment program pursuant to  
38 paragraph (4) of subdivision (b) of Section 23166 , and  
39 unless the person is ordered to participate in, and  
40 complete, a program under subdivision (b), the court



1 shall impose as a condition of probation that the person  
 2 participate, for at least 18 months and in a manner  
 3 satisfactory to the court, in a program licensed pursuant  
 4 to Chapter 9 (commencing with Section 11836) of Part 2  
 5 of Division 10.5 of the Health and Safety Code, as  
 6 designated by the court. Any person who has previously  
 7 completed a 12-month or 18-month program licensed  
 8 pursuant to Chapter 9 (commencing with Section 11836)  
 9 of Part 2 of Division 10.5 of the Health and Safety Code  
 10 shall not be eligible for referral pursuant to this  
 11 subdivision unless a 30-month licensed program is not  
 12 available for referral in the county of the person's  
 13 residence or employment. No condition of probation  
 14 required pursuant to this subdivision is a basis for  
 15 reducing any other probation requirement in this section  
 16 or Section 23206 or for avoiding the mandatory license  
 17 revocation provisions of paragraph (5) of subdivision (a)  
 18 of Section 13352.

19 ~~SEC. 53.~~

20 SEC. 56. Section 23182 of the Vehicle Code is  
 21 amended to read:

22 23182. Any person who proximately causes bodily  
 23 injury or death to more than one victim in any one  
 24 instance of driving or operating a vehicle in violation of  
 25 Section 23153 of this code or in violation of Section 191.5  
 26 or paragraph (3) of subdivision (c) of Section 192 of the  
 27 Penal Code, shall, upon a felony conviction, receive an  
 28 enhancement of one year in the state prison for each  
 29 additional injured victim. The enhanced sentence  
 30 provided for in this section shall not be imposed unless the  
 31 fact of the bodily injury to each additional victim is  
 32 charged in the accusatory pleading and admitted or  
 33 found to be true by the trier of fact. The maximum  
 34 number of one year enhancements which may be  
 35 imposed pursuant to this section is three.

36 Notwithstanding any other provision of law, the court  
 37 may strike the enhancements provided in this section if  
 38 it determines that there are circumstances in mitigation  
 39 of the additional punishment and states on the record its  
 40 reasons for striking the additional punishment.



1 ~~SEC. 54.~~

2 *SEC. 57.* Section 23185 of the Vehicle Code is  
3 repealed.

4 ~~SEC. 55.~~

5 *SEC. 58.* Section 23186 of the Vehicle Code is  
6 repealed.

7 ~~SEC. 56.~~

8 *SEC. 59.* Section 23187 of the Vehicle Code is  
9 repealed.

10 ~~SEC. 57.~~

11 *SEC. 60.* Section 23190 of the Vehicle Code is  
12 amended to read:

13 23190. (a) If any person is convicted of a violation of  
14 Section 23153 and the offense occurred after one or more  
15 separate violations of Section 23103, as specified in  
16 Section 23103.5, or Section 23152 or 23153, or any  
17 combination of these violations, which resulted in  
18 convictions, that person shall be punished by  
19 imprisonment in the state prison for a term of ~~10~~ *two,*  
20 *three, or four* years and by a fine of not less than one  
21 thousand fifteen dollars (\$1,015) nor more than five  
22 thousand dollars (\$5,000). The person's privilege to  
23 operate a motor vehicle shall be revoked by the  
24 Department of Motor Vehicles pursuant to paragraph (4)  
25 of subdivision (a) of Section 13352.

26 (b) If any person is convicted of a violation of Section  
27 23153, and the act or neglect proximately causes great  
28 bodily injury, as defined in Section 12022.7 of the Penal  
29 Code, to any person other than the driver, and the offense  
30 occurred after one or more separate violations of Section  
31 23103, as specified in Section 23103.5, or Section 23152 or  
32 23153, or any combination of these violations, which  
33 resulted in convictions, that person shall be punished by  
34 imprisonment in the state prison for a term of ~~10~~ *two,*  
35 *three, or four* years and by a fine of not less than one  
36 thousand fifteen dollars (\$1,015) nor more than five  
37 thousand dollars (\$5,000). The person's privilege to  
38 operate a motor vehicle shall be revoked by the  
39 Department of Motor Vehicles pursuant to paragraph (4)  
40 of subdivision (a) of Section 13352.



1 (c) If any person is convicted under subdivision (b),  
2 and the offense for which the person is convicted  
3 occurred after four or more separate violations of Section  
4 23103, as specified in Section 23103.5, or Section 23152 or  
5 23153, or any combination of these violations, that  
6 resulted in convictions, that person shall, in addition and  
7 consecutive to the sentences imposed under subdivision  
8 (b), be punished by an additional term of imprisonment  
9 in the state prison for three years.

10 The enhancement allegation provided in the  
11 subdivision shall be pleaded and proved as provided by  
12 law.

13 (d) Any person convicted of Section 23153 punishable  
14 under this section shall be designated as an habitual traffic  
15 offender for a period of three years, subsequent to the  
16 conviction. The person shall be advised of this designation  
17 pursuant to subdivision (b) of Section 13350.

18 (e) Any person confined in state prison under this  
19 section shall be ordered by the court to participate in an  
20 alcohol or drug program, or both, that is available at the  
21 prison during the person's confinement.

22 ~~SEC. 58.~~

23 *SEC. 61.* Section 23191 of the Vehicle Code is  
24 amended to read:

25 23191. (a) If the court grants probation to any person  
26 punished under Section 23190, in addition to the  
27 provisions of Section 23206 and any other terms and  
28 conditions imposed by the court, the court shall impose  
29 as conditions of probation that the person be confined in  
30 the county jail for at least one year, that the person pay  
31 a fine of at least three hundred ninety dollars (\$390) but  
32 not more than five thousand dollars (\$5,000), and that the  
33 person make restitution or reparation pursuant to Section  
34 1203.1 of the Penal Code. The person's privilege to  
35 operate a motor vehicle shall be revoked by the  
36 Department of Motor Vehicles pursuant to paragraph (4)  
37 of subdivision (a) of Section 13352.

38 (b) In addition to the provisions of Section 23206 and  
39 subdivision (a), if the court grants probation to any  
40 person punished under Section 23190, the court shall



1 impose as a condition of probation that the person  
2 complete, subsequent to the underlying conviction and  
3 in a manner satisfactory to the court, an 18-month  
4 program or, if available in the county of the person's  
5 residence or employment, a 30-month program licensed  
6 pursuant to Chapter 9 (commencing with Section 11836)  
7 of Part 2 of Division 10.5 of the Health and Safety Code,  
8 as designated by the court. In lieu of the minimum term  
9 of imprisonment in subdivision (a), the court shall impose  
10 as a minimum condition of probation under this  
11 subdivision that the person be confined in the county jail  
12 for at least 30 days but not more than one year. Except as  
13 provided in subdivision (b), if the court grants probation  
14 under this section, the court shall order the treatment  
15 prescribed by this subdivision, whether or not the person  
16 has previously completed a treatment program pursuant  
17 to paragraph (4) of subdivision (b) of Section 23166. A  
18 person ordered to treatment pursuant to this subdivision  
19 shall apply to the court or to a board of review, as  
20 designated by the court, at the conclusion of the program  
21 to obtain the court's order of satisfaction. Only upon the  
22 granting of that order of satisfaction by the court may the  
23 program issue its certificate of successful completion and  
24 report the completion to the Department of Motor  
25 Vehicles. A failure to obtain an order of satisfaction at the  
26 conclusion of the program is a violation of probation. In  
27 order to enable all required persons to participate, each  
28 person shall pay the program costs commensurate with  
29 the person's ability to pay as determined pursuant to  
30 Section 11837.4 of the Health and Safety Code. No  
31 condition of probation required pursuant to this  
32 subdivision is a basis for reducing any other probation  
33 requirement in this section or Section 23206 or for  
34 avoiding the mandatory license revocation provisions of  
35 paragraph (4) of subdivision (a) of Section 13352.

36 ~~SEC. 59.~~

37 *SEC. 62.* Section 23192 of the Vehicle Code is  
38 amended to read:

39 23192. In lieu of the alcohol or drug education  
40 program prescribed by Section 23161, 23166, 23176, 23181,



1 or 23191, a court may impose, as a condition of probation,  
2 that the person complete, subsequent to the underlying  
3 conviction, a program specified in Section 8001 of the  
4 Penal Code, if the person consents and has been accepted  
5 into that program. Acceptance into that program shall be  
6 verified by a certification, under penalty of perjury, by  
7 the director of the program.

8 ~~SEC. 60.~~

9 *SEC. 63.* Section 23194 of the Vehicle Code is  
10 amended to read:

11 23194. (a) If any person is convicted of a violation of  
12 Section 23152 or 23153 and a minor less than 15 years of  
13 age was a passenger in the vehicle at the time of the  
14 offense, the court shall impose a term in the state prison  
15 of two, four, or six years, in addition to any other penalty  
16 prescribed in this article.

17 (b) The driving or operating of a vehicle in which a  
18 minor less than 15 years of age was a passenger shall be  
19 pled and proven.

20 (c) No punishment enhancement shall be imposed  
21 pursuant to this section if the person is also convicted of  
22 a violation of Section 273a of the Penal Code arising out  
23 of the same facts and incident.

24 ~~SEC. 61.~~

25 *SEC. 64.* Section 23199 of the Vehicle Code is  
26 amended to read:

27 23199. If any person is convicted of a violation of  
28 Section 20001, or of Section 23152 or 23153 and is  
29 sentenced to one year in the county jail or more than one  
30 year in state prison under Section 23165, 23166, 23175,  
31 23176, 23180, 23181, 23182, 23190, or 23191, the court may  
32 postpone the revocation or suspension of the person's  
33 driving privilege until the term of imprisonment is  
34 served.

35 ~~SEC. 62.~~

36 *SEC. 65.* Section 23201 of the Vehicle Code is  
37 amended to read:

38 23201. The fact that any person charged with driving  
39 or operating a vehicle while under the influence of any  
40 drug or the combined influence of alcoholic beverages



1 and any drug in violation of Section 23152 or 23153 is or  
2 has been entitled to use the drug under the laws of this  
3 state shall not constitute a defense against any violation  
4 of the sections.

5 ~~SEC. 63.~~

6 *SEC. 66.* Section 23205 of the Vehicle Code is  
7 amended to read:

8 23205. (a) Upon any conviction of a violation of  
9 Section 23152 or 23153, any judge of the court may order  
10 a presentence investigation to determine whether a  
11 person convicted of the violation would benefit from one  
12 or more education, training, or treatment programs, and  
13 the court may order suitable education, training, or  
14 treatment for the person, in addition to imposing any  
15 penalties required by this code.

16 (b) In determining whether to require, as a condition  
17 of probation, the participation in a program pursuant to  
18 subdivision (b) of Section 23161, subdivision (b) of  
19 Section 23166, subdivision (b) of Section 23176,  
20 subdivision (b) of Section 23181, or subdivision (b) of  
21 Section 23191, the court may consider any relevant  
22 information about the person made available pursuant to  
23 a presentence investigation, which is permitted but not  
24 required by subdivision (a), or other screening  
25 procedure. No such information shall be furnished to the  
26 court, however, by any person who also provides services  
27 in a privately operated, approved program or who has  
28 any direct interest in a privately operated, approved  
29 program. In addition, the court shall obtain from the  
30 Department of Motor Vehicles a copy of the person's  
31 driving record to determine whether the person is  
32 eligible to participate in an approved program pursuant  
33 to the provisions of this article.

34 (c) The Judicial Council shall adopt a standard form  
35 for use by all courts, defendants, and alcohol or drug  
36 education programs in certifying to the court that the  
37 person (1) has enrolled within the specified time period,  
38 and (2) has successfully completed any program required  
39 by Section 23161 or 23181.

40 ~~SEC. 64.~~



1 SEC. 67. Section 23206.5 of the Vehicle Code is  
2 amended to read:

3 23206.5. (a) If any person is convicted of a violation  
4 of Section 23152 or 23153 and the offense was a second or  
5 subsequent offense punishable under Section 23165,  
6 23175, or 23190, the court shall require that any term of  
7 imprisonment that is imposed include at least one period  
8 of not less than 48 consecutive hours of imprisonment or,  
9 in the alternative and notwithstanding Section 4024.2 of  
10 the Penal Code, that the person serve not less than 10 days  
11 of community service.

12 (b) Notwithstanding any other provision of law,  
13 except Section 2900.5 of the Penal Code, unless the court  
14 expressly finds in the circumstances that the punishment  
15 inflicted would be cruel or unusual punishment  
16 prohibited by Section 17 of Article I of the California  
17 Constitution, no court or person to whom a person is  
18 remanded for execution of sentence shall release, or  
19 permit the release of, a person from the requirements of  
20 subdivision (a), including, but not limited to, any  
21 work-release program, weekend service of sentence  
22 program, diversion or treatment program, or otherwise.

23 (c) For purposes of this section, "imprisonment"  
24 means confinement in a jail, in a minimum security  
25 facility, or in an inpatient rehabilitation facility, as  
26 provided in Part 1309 (commencing with Section 1309.1)  
27 of Title 23 of the Code of Federal Regulations.

28 (d) This section shall become operative only if, and  
29 upon the date of the certification by, the Department of  
30 Motor Vehicles to the Secretary of State that California  
31 has submitted a completed application for federal Title  
32 408 grant programs funds pursuant to that Part 1309.

33 ~~SEC. 65.~~

34 SEC. 68. Section 23220 of the Vehicle Code is  
35 amended to read:

36 23220. No person shall drink any alcoholic beverage  
37 while driving or operating a motor vehicle upon any  
38 highway.

39 ~~SEC. 66.~~



1 SEC. 69. Section 23222 of the Vehicle Code is  
2 amended to read:

3 23222. (a) No person shall have in his or her  
4 possession on his or her person, while driving or operating  
5 a motor vehicle upon a highway, any bottle, can, or other  
6 receptacle, containing any alcoholic beverage which has  
7 been opened, or a seal broken, or the contents of which  
8 have been partially removed.

9 (b) Except as authorized by law, every person who  
10 possesses, while driving or operating a motor vehicle  
11 upon a highway, not more than one avoirdupois ounce of  
12 marijuana, other than concentrated cannabis as defined  
13 by Section 11006.5 of the Health and Safety Code, is guilty  
14 of a misdemeanor and shall be punished by a fine of not  
15 more than one hundred dollars (\$100). Notwithstanding  
16 any other provision of law, if the person has been  
17 previously convicted three or more times of an offense  
18 described in this subdivision during the two-year period  
19 immediately preceding the date of commission of the  
20 violation to be charged, the previous convictions shall also  
21 be charged in the accusatory pleading and, if found to be  
22 true by the jury upon a jury trial or by the court upon a  
23 court trial or if admitted by the person, Sections 1000.1  
24 and 1000.2 of the Penal Code are applicable to the person,  
25 and the court shall divert and refer the person for  
26 education, treatment, or rehabilitation, without a court  
27 hearing or determination or the concurrence of the  
28 district attorney, to an appropriate community program  
29 which will accept the person. If the person is so diverted  
30 and referred, the person is not subject to the fine specified  
31 in this subdivision. In any case in which a person is  
32 arrested for a violation of this subdivision and does not  
33 demand to be taken before a magistrate, the person shall  
34 be released by the arresting officer upon presentation of  
35 satisfactory evidence of identity and giving his or her  
36 written promise to appear in court, as provided in Section  
37 40500, and shall not be subjected to booking.

38 ~~SEC. 67.~~

39 SEC. 70. Section 23224 of the Vehicle Code is  
40 amended to read:

1 23224. (a) No person under the age of 21 years shall  
2 knowingly drive or operate any motor vehicle carrying  
3 any alcoholic beverage, unless the person is accompanied  
4 by a parent, responsible adult relative, any other adult  
5 designated by the parent, or legal guardian for the  
6 purpose of transportation of an alcoholic beverage, or is  
7 employed by a licensee under the Alcoholic Beverage  
8 Control Act (Division 9 (commencing with Section  
9 23000) of the Business and Professions Code), and is  
10 driving or operating the motor vehicle during regular  
11 hours and in the course of the person's employment. If the  
12 driver was unaccompanied, he or she shall have a  
13 complete defense if he or she was following, in a timely  
14 manner, the reasonable instructions of his or her parent,  
15 legal guardian, responsible adult relative, or adult  
16 designee relating to disposition of the alcoholic beverage.

17 (b) No passenger in any motor vehicle who is under  
18 the age of 21 years shall knowingly possess or have under  
19 that person's control any alcoholic beverage, unless the  
20 passenger is accompanied by a parent, legal guardian,  
21 responsible adult relative, any other adult designated by  
22 the parent, or legal guardian for the purpose of  
23 transportation of an alcoholic beverage, or is employed by  
24 a licensee under the Alcoholic Beverage Control Act  
25 (Division 9 (commencing with Section 23000) of the  
26 Business and Professions Code), and possession or control  
27 is during regular hours and in the course of the  
28 passenger's employment. If the passenger was  
29 unaccompanied, he or she shall have a complete defense  
30 if he or she was following, in a timely manner, the  
31 reasonable instructions of his or her parent, legal  
32 guardian, responsible adult relative or adult designee  
33 relating to disposition of the alcoholic beverage.

34 (c) If the vehicle used in any violation of subdivision  
35 (a) or (b) is registered to an offender who is under the  
36 age of 21 years, the vehicle may be impounded at the  
37 owner's expense for not less than one day nor more than  
38 30 days for each violation.

39 (d) Any person under 21 years of age convicted of a  
40 violation of this section is subject to Section 13202.5.



1 (e) Any person convicted for a violation of subdivision  
2 (a) or (b) is guilty of a misdemeanor and shall be  
3 punished upon conviction by a fine of not more than one  
4 thousand dollars (\$1,000) or by imprisonment in the  
5 county jail for not more than six months, or by both that  
6 fine and imprisonment.

7 ~~SEC. 68.—~~

8 SEC. 71. Section 34501.16 of the Vehicle Code is  
9 amended to read:

10 34501.16. (a) Every employer of a commercial driver  
11 shall provide information to that employee at the time of  
12 hiring and to all employed commercial drivers annually,  
13 concerning all of the following:

14 (1) The prohibition against driving or operating a  
15 commercial motor vehicle with over 0.04 percent or  
16 more, by weight, alcohol in his or her blood on and after  
17 January 1, 1992.

18 (2) The requirement to be placed out of service for 24  
19 hours if the person's blood-alcohol concentration is tested  
20 to be 0.01 percent or more, by weight, on and after  
21 January 1, 1992.

22 (b) The Department of Motor Vehicles shall include  
23 the information prescribed in subdivision (a), together  
24 with information concerning the alcohol concentration in  
25 a person's blood resulting from consumption of alcoholic  
26 beverages, in each publication of the commercial driver's  
27 handbook published after January 1, 1990.

28 (c) This section shall remain operative until the  
29 director determines that federal regulations adopted  
30 pursuant to the Commercial Motor Vehicle Safety Act of  
31 1986 (49 U.S.C. Sec. 2701 et seq.) do not require the state  
32 to implement the prohibitions and requirements in  
33 paragraphs (1) and (2) of subdivision (a).

34 (d) The director shall submit a notice of the  
35 determination under subdivision (c) to the Secretary of  
36 State, and this section shall be repealed upon the receipt  
37 of that notice.

38 ~~SEC. 69.—~~

39 SEC. 72. Section 40000.15 of the Vehicle Code is  
40 amended to read:



1 40000.15. A violation of any of the following provisions  
2 shall constitute a misdemeanor, and not an infraction:  
3 Sections 23103 and 23104, relating to reckless driving.  
4 Section 23109, relating to speed contests or exhibitions.  
5 Section 23110, subdivision (a), relating to throwing at  
6 vehicles.  
7 Section 23152, relating to driving or operating a vehicle  
8 while under the influence.  
9 Subdivision (b) of Section 23222, relating to possession  
10 of marijuana.  
11 *Subdivision (a) or (b) of Section 23224, relating to*  
12 *persons under 21 years of age knowingly driving or*  
13 *operating, or being a passenger on, a motor vehicle*  
14 *carrying any alcoholic beverage.*  
15 Sections 23237 and 23244, relating to ignition interlock  
16 devices.  
17 Section 23253, relating to officers on vehicular  
18 crossings.  
19 Section 23332, relating to trespassing.  
20 Section 24011.3, relating to vehicle bumper strength  
21 notices.  
22 Section 27150.1, relating to sale of exhaust systems.  
23 Section 27362, relating to child passenger seat  
24 restraints.  
25 Section 28050, relating to true mileage driven.  
26 Section 28050.5, relating to nonfunctional odometers.  
27 Section 28051, relating to resetting odometer.  
28 Section 28051.5, relating to device to reset odometer.  
29 ~~SEC. 70.~~  
30 *SEC. 73.* Section 40300.5 of the Vehicle Code is  
31 amended to read:  
32 40300.5. Notwithstanding any other provision of law,  
33 a peace officer may, without a warrant, arrest a person  
34 when the officer has reasonable cause to believe that the  
35 person had been driving or operating a vehicle while  
36 under the influence of an alcoholic beverage or any drug,  
37 or under the combined influence of an alcoholic beverage  
38 and any drug.  
39 ~~SEC. 71.~~



1 *SEC. 74.* Section 40300.6 of the Vehicle Code is  
2 amended to read:

3 40300.6. Section 40300.5 shall be liberally interpreted  
4 to further safe roads and the control of driving or  
5 operating vehicles while under the influence of an  
6 alcoholic beverage or any drug in order to permit arrests  
7 to be made pursuant to that section within a reasonable  
8 time and distance away from the scene of a traffic  
9 accident.

10 The enactment of this section during the 1985–86  
11 Regular Session of the Legislature does not constitute a  
12 change in, but is declaratory of, the existing law.

13 ~~*SEC. 72.*~~

14 *SEC. 75.* Section 42009 of the Vehicle Code is  
15 amended to read:

16 42009. (a) For any offense specified in subdivision  
17 (b), committed by the driver of a vehicle within a  
18 highway construction or maintenance area, during any  
19 time when traffic is regulated or restricted through or  
20 around that area pursuant to Section 21367, when the  
21 highway construction or maintenance is actually being  
22 performed in the area by workers acting in their official  
23 capacity, the fine, in a misdemeanor case, shall be double  
24 the amount otherwise prescribed. In an infraction case,  
25 the fine shall be one category higher than the penalty  
26 otherwise prescribed by the uniform traffic penalty  
27 schedule established pursuant to Section 40310.

28 (b) A violation of any of the following provisions is an  
29 offense which is subject to subdivision (a):

30 (1) Section 21367, relating to regulation of traffic at a  
31 construction site.

32 (2) Article 3 (commencing with Section 21450) of  
33 Chapter 2 of Division 11, relating to obedience to traffic  
34 devices.

35 (3) Chapter 3 (commencing with Section 21650) of  
36 Division 11, relating to driving, overtaking, and passing.

37 (4) Chapter 4 (commencing with Section 21800) of  
38 Division 11, relating to yielding the right-of-way.



- 1 (5) Chapter 6 (commencing with Section 22100) of  
2 Division 11, relating to turning and stopping and turn  
3 signals.
- 4 (6) Chapter 7 (commencing with Section 22348) of  
5 Division 11, relating to speed limits.
- 6 (7) Chapter 8 (commencing with Section 22450) of  
7 Division 11, relating to special traffic stops.
- 8 (8) Section 23103, relating to reckless driving.
- 9 (9) Section 23104, relating to reckless driving which  
10 results in bodily injury to another.
- 11 (10) Section 23109, relating to speed contests.
- 12 (11) Section 23152, relating to driving or operating a  
13 vehicle while under the influence of alcohol or a  
14 controlled substance, or a violation of Section 23103, as  
15 specified in Section 23103.5, relating to alcohol-related  
16 reckless driving.
- 17 (12) Section 23153, relating to driving or operating a  
18 vehicle while under the influence of alcohol or a  
19 controlled substance, which results in bodily injury to  
20 another.
- 21 (13) Section 23220, relating to drinking while driving  
22 or operating a vehicle.
- 23 (14) Section 23221, relating to drinking in a motor  
24 vehicle while on the highway.
- 25 (15) Section 23222, relating to driving or operating a  
26 vehicle while possessing an open alcoholic beverage  
27 container.
- 28 (16) Section 23223, relating to being in a vehicle on the  
29 highway while possessing an open alcoholic beverage  
30 container.
- 31 (17) Section 23224, relating to being a driver or  
32 operator of a vehicle, or a passenger, under the age of 21  
33 years and possessing an open alcoholic beverage  
34 container.
- 35 (18) Section 23225, relating to being the owner or  
36 driver of a vehicle in which there is an open alcoholic  
37 beverage container.
- 38 (19) Section 23226, relating to being a passenger in a  
39 vehicle in which there is an open alcoholic beverage  
40 container.



1 (c) This section applies only when construction or  
2 maintenance work is actually being performed by  
3 workers, and there are work zone traffic control devices,  
4 traffic controls or warning signs, or any combination of  
5 those, to notify motorists and pedestrians of construction  
6 or maintenance workers in the area.

7 ~~SEC. 73.~~

8 SEC. 76. No reimbursement is required by this act  
9 pursuant to Section 6 of Article XIII B of the California  
10 Constitution because the only costs that may be incurred  
11 by a local agency or school district will be incurred  
12 because this act creates a new crime or infraction,  
13 eliminates a crime or infraction, or changes the penalty  
14 for a crime or infraction, within the meaning of Section  
15 17556 of the Government Code, or changes the definition  
16 of a crime within the meaning of Section 6 of Article  
17 XIII B of the California Constitution.

18 Notwithstanding Section 17580 of the Government  
19 Code, unless otherwise specified, the provisions of this act  
20 shall become operative on the same date that the act  
21 takes effect pursuant to the California Constitution.

