

AMENDED IN ASSEMBLY MAY 24, 1996
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

~~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. An act to amend Sections 23158.2, 23224, and 40000.15 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)~~

~~(1) 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~~allow~~ 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)~~

~~(2) 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.~~

~~(9)~~

(3) 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 *SECTION 1. Section 23158.2 of the Vehicle Code is*
3 *amended to read:*
4 23158.2. (a) If a peace officer serves a notice of an
5 order of suspension pursuant to Section 23137, or arrests
6 any person for a violation of Section 23140, 23152, or 23153,
7 the peace officer shall immediately forward to the
8 department a sworn report of all information relevant to
9 the enforcement action, including information which



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

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

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

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

32 SEC. 2. Section 23224 of the Vehicle Code is amended
 33 to read:

34 23224. (a) No person under the age of 21 years shall
 35 knowingly drive any motor vehicle carrying any alcoholic
 36 beverage, unless the person is accompanied by a parent,
 37 responsible adult relative, any other adult designated by
 38 the parent, or legal guardian for the purpose of
 39 transportation of an alcoholic beverage, or is employed by
 40 a licensee under the Alcoholic Beverage Control Act



1 (Division 9 (commencing with Section 23000) of the
2 Business and Professions Code), and is driving the motor
3 vehicle during regular hours and in the course of the
4 person's employment. If the driver was unaccompanied,
5 he or she shall have a complete defense if he or she was
6 following, in a timely manner, the reasonable instructions
7 of his or her parent, legal guardian, responsible adult
8 relative, or adult designee relating to disposition of the
9 alcoholic beverage.

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

27 (c) If the vehicle used in any violation of subdivision
28 (a) or (b) is registered to an offender who is under the
29 age of 21 years, the vehicle may be impounded at the
30 owner's expense for not less than one day nor more than
31 30 days for each violation.

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

34 (e) *Any person convicted for a violation of subdivision*
35 *(a) or (b) is guilty of a misdemeanor and shall be*
36 *punished upon conviction by a fine of not more than one*
37 *thousand dollars (\$1,000) or by imprisonment in the*
38 *county jail for not more than six months, or by both that*
39 *fine and imprisonment.*



1 SEC. 3. Section 40000.15 of the Vehicle Code is
2 amended to read:

3 40000.15. A violation of any of the following provisions
4 shall constitute a misdemeanor, and not an infraction:

5 Sections 23103 and 23104, relating to reckless driving.

6 Section 23109, relating to speed contests or exhibitions.

7 Section 23110, subdivision (a), relating to throwing at
8 vehicles.

9 Section 23152, relating to driving under the influence.

10 Subdivision (b) of Section 23222, relating to possession
11 of marijuana.

12 *Subdivision (a) or (b) of Section 23224, relating to*
13 *persons under 21 years of age knowingly driving, or being*
14 *a passenger in, a motor vehicle carrying any alcoholic*
15 *beverage.*

16 Sections 23237 and 23244, relating to ignition interlock
17 devices.

18 Section 23253, relating to officers on vehicular
19 crossings.

20 Section 23332, relating to trespassing.

21 Section 24011.3, relating to vehicle bumper strength
22 notices.

23 Section 27150.1, relating to sale of exhaust systems.

24 Section 27362, relating to child passenger seat
25 restraints.

26 Section 28050, relating to true mileage driven.

27 Section 28050.5, relating to nonfunctional odometers.

28 Section 28051, relating to resetting odometer.

29 Section 28051.5, relating to device to reset odometer.

30 SEC. 4. *No reimbursement is required by this act*
31 *pursuant to Section 6 of Article XIII B of the California*
32 *Constitution because the only costs that may be incurred*
33 *by a local agency or school district will be incurred*
34 *because this act creates a new crime or infraction,*
35 *eliminates a crime or infraction, or changes the penalty*
36 *for a crime or infraction, within the meaning of Section*
37 *17556 of the Government Code, or changes the definition*
38 *of a crime within the meaning of Section 6 of Article*
39 *XIII B of the California Constitution.*



1 *Notwithstanding Section 17580 of the Government*
2 *Code, unless otherwise specified, the provisions of this act*
3 *shall become operative on the same date that the act*
4 *takes effect pursuant to the California Constitution.*

5
6
7
8
9
10
11

**All matter omitted in this version of the
bill appears in the bill as amended in the
Assembly, March 13, 1996 (JR 11)**

