

AMENDED IN ASSEMBLY MAY 29, 1996
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 Sections ~~23158.2, 23224~~, 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 ~~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 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.~~

~~(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 a person under 21 years of age 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. Because the bill would increase the punishment for an existing crime, it would impose a state-mandated local program.

~~(3)~~

~~(2) 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 23158.2 of the Vehicle Code is~~
2 ~~amended to read:~~
3 ~~23158.2. (a) If a peace officer serves a notice of an~~
4 ~~order of suspension pursuant to Section 23137, or arrests~~
5 ~~any person for a violation of Section 23140, 23152, or 23153,~~
6 ~~the peace officer shall immediately forward to the~~
7 ~~department a sworn report of all information relevant to~~
8 ~~the enforcement action, including information which~~
9 ~~adequately identifies the person, a statement of the~~
10 ~~officer's grounds for belief that the person violated~~
11 ~~Section 23136, 23140, 23152, or 23153, a sworn or unsworn~~
12 ~~report of the results of any chemical tests which were~~
13 ~~conducted on the person or the circumstances~~
14 ~~constituting a refusal to submit to or complete the~~
15 ~~chemical testing pursuant to Section 23137 or 23157, a~~



1 ~~copy of any notice to appear under which the person was~~
2 ~~released from custody, and, if immediately available, a~~
3 ~~copy of the complaint filed with the court. For purposes~~
4 ~~of this section and subdivision (g) of Section 23157,~~
5 ~~“immediately” means on or before the end of the fifth~~
6 ~~ordinary business day following the arrest, except that~~
7 ~~with respect to Section 23137 only, “immediately” has the~~
8 ~~same meaning as defined in paragraph (3) of subdivision~~
9 ~~(b) of Section 23137.~~

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

12 ~~(e) For purposes of this section, a report prepared~~
13 ~~pursuant to subdivision (a) and received pursuant to~~
14 ~~subdivision (a) of Section 1801, is a sworn report when it~~
15 ~~bears an entry identifying the maker of the document or~~
16 ~~a signature that has been affixed by means of an~~
17 ~~electronic device approved by the department.~~

18 ~~(d) In amending subdivision (a) to allow for unsworn~~
19 ~~reports, it is the intent of the Legislature to abrogate the~~
20 ~~holdings in Wheeler v. Department of Motor Vehicles~~
21 ~~(1994), 34 Cal. App. 4th 228 and Downer v. Zolin (1995),~~
22 ~~34 Cal. App. 4th 578, insofar as those decisions interpreted~~
23 ~~subdivision (a) to require reports of the results of~~
24 ~~chemical tests to be sworn.~~

25 ~~SEC. 2.~~

26 ~~SECTION 1.~~ Section 23224 of the Vehicle Code is
27 amended to read:

28 23224. (a) No person under the age of 21 years shall
29 knowingly drive any motor vehicle carrying any alcoholic
30 beverage, unless the person is accompanied by a parent,
31 responsible adult relative, any other adult designated by
32 the parent, or legal guardian for the purpose of
33 transportation of an alcoholic beverage, or is employed by
34 a licensee under the Alcoholic Beverage Control Act
35 (Division 9 (commencing with Section 23000) of the
36 Business and Professions Code), and is driving the motor
37 vehicle during regular hours and in the course of the
38 person’s employment. If the driver was unaccompanied,
39 he or she shall have a complete defense if he or she was
40 following, in a timely manner, the reasonable instructions



1 of his or her parent, legal guardian, responsible adult
 2 relative, or adult designee relating to disposition of the
 3 alcoholic beverage.

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

21 (c) If the vehicle used in any violation of subdivision
 22 (a) or (b) is registered to an offender who is under the
 23 age of 21 years, the vehicle may be impounded at the
 24 owner's expense for not less than one day nor more than
 25 30 days for each violation.

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

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

34 ~~SEC. 3.~~

35 *SEC. 2.* Section 40000.15 of the Vehicle Code is
 36 amended to read:

37 40000.15. A violation of any of the following provisions
 38 shall constitute a misdemeanor, and not an infraction:

- 39 Sections 23103 and 23104, relating to reckless driving.
- 40 Section 23109, relating to speed contests or exhibitions.



1 Section 23110, subdivision (a), relating to throwing at
2 vehicles.

3 Section 23152, relating to driving under the influence.

4 Subdivision (b) of Section 23222, relating to possession
5 of marijuana.

6 Subdivision (a) or (b) of Section 23224, relating to
7 persons under 21 years of age knowingly driving, or being
8 a passenger in, a motor vehicle carrying any alcoholic
9 beverage.

10 Sections 23237 and 23244, relating to ignition interlock
11 devices.

12 Section 23253, relating to officers on vehicular
13 crossings.

14 Section 23332, relating to trespassing.

15 Section 24011.3, relating to vehicle bumper strength
16 notices.

17 Section 27150.1, relating to sale of exhaust systems.

18 Section 27362, relating to child passenger seat
19 restraints.

20 Section 28050, relating to true mileage driven.

21 Section 28050.5, relating to nonfunctional odometers.

22 Section 28051, relating to resetting odometer.

23 Section 28051.5, relating to device to reset odometer.

24 ~~SEC. 4.~~

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

35 Notwithstanding Section 17580 of the Government
36 Code, unless otherwise specified, the provisions of this act
37 shall become operative on the same date that the act
38 takes effect pursuant to the California Constitution.

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