

AMENDED IN SENATE JULY 14, 1997  
AMENDED IN ASSEMBLY MARCH 31, 1997  
AMENDED IN ASSEMBLY MARCH 3, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 130**

**Introduced by Assembly Member Battin**  
(Principal coauthor: Senator Leslie)

January 15, 1997

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An act to ~~amend Section 23175 of, and to add Section 23175.5~~ to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 130, as amended, Battin. Vehicles: driving under the influence: penalties.

(1) Existing law requires that any person convicted of a violation of a specified ~~provision~~ *provisions* prohibiting driving under the influence of alcohol or drugs, or both alcohol and drugs, driving with an excessive blood-alcohol concentration, or driving when addicted to any drug be punished by imprisonment in the state prison, or by a specified term in the county jail, and by a specified ~~fine~~, ~~if the offense occurred within 7 years of 3 or more convictions of separate violations of specified provisions prohibiting driving under the described influence.~~ Existing law also requires that the person's driving privilege be revoked by the Department of Motor Vehicles and that the person be designated an ~~habitual traffic offender~~, as specified  *fines*.

This bill would require that any person convicted of a violation of the specified driving-under-the-influence provision under the described situation be punished exclusively by imprisonment in the state prison. This bill would additionally provide that a person is guilty of a felony if the described offense of driving-under-the-influence occurred within 10 years of specified prior offenses that were either punished or punishable as felonies, as specified.

Because the bill would make certain violations punishable exclusively as felonies and would require prosecutors to prove prior convictions, it would impose a state-mandated local program.

(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 23175 of the Vehicle Code is~~  
2 ~~amended to read:~~  
3 ~~23175. (a) If any person is convicted of a violation of~~  
4 ~~Section 23152 and the offense occurred within seven~~  
5 ~~years of three or more separate violations of Section~~  
6 ~~23103, as specified in Section 23103.5, or Section 23152 or~~  
7 ~~23153, or any combination thereof, which resulted in~~  
8 ~~convictions, that person shall be punished by~~  
9 ~~imprisonment in the state prison, and by a fine of not less~~  
10 ~~than three hundred ninety dollars (\$390) nor more than~~  
11 ~~one thousand dollars (\$1,000). The person's privilege to~~  
12 ~~operate a motor vehicle shall be revoked by the~~  
13 ~~Department of Motor Vehicles pursuant to paragraph (7)~~  
14 ~~of subdivision (a) of Section 13352.~~  
15 ~~(b) Any person convicted of a violation of Section~~  
16 ~~23152 punishable under this section shall be designated as~~  
17 ~~an habitual traffic offender for a period of three years;~~



1 ~~subsequent to the conviction. The person shall be advised~~  
2 ~~of this designation pursuant to subdivision (b) of Section~~  
3 ~~13350.~~

4 ~~SEC. 2.—~~

5 *SECTION 1.* Section 23175.5 is added to the Vehicle  
6 Code, to read:

7 23175.5. (a) A person is guilty of a felony punishable  
8 by imprisonment in the state prison and by a fine of not  
9 less than three hundred ninety dollars (\$390) nor more  
10 than one thousand dollars (\$1,000) if that person is  
11 convicted of a violation of Section 23152 or 23153, and the  
12 offense occurred within 10 years of any of the following:

13 (1) A prior violation of Section 23152 that was  
14 punishable under Section 23175 or this section, or both.

15 (2) A prior violation of Section 23153 that was  
16 punished as a felony.

17 (3) A prior violation that was punished as a felony  
18 under Section 191.5 of the Penal Code or paragraph (1)  
19 or (3) of subdivision (c) of Section 192 of the Penal Code.  
20 The person's privilege to operate a motor vehicle shall be  
21 revoked by the Department of Motor Vehicles under  
22 paragraph (7) of subdivision (a) of Section 13352.

23 (b) Any person convicted of a violation of Section 23152  
24 that is punishable under this section shall be designated  
25 an habitual traffic offender for a period of three years,  
26 subsequent to the conviction. The person shall be advised  
27 of this designation under subdivision (b) of Section 13350.

28 ~~SEC. 3.—~~

29 *SEC. 2.* No reimbursement is required by this act  
30 pursuant to Section 6 of Article XIII B of the California  
31 Constitution because the only costs that may be incurred  
32 by a local agency or school district will be incurred  
33 because this act creates a new crime or infraction,  
34 eliminates a crime or infraction, or changes the penalty  
35 for a crime or infraction, within the meaning of Section  
36 17556 of the Government Code, or changes the definition  
37 of a crime within the meaning of Section 6 of Article  
38 XIII B of the California Constitution.

39 Notwithstanding Section 17580 of the Government  
40 Code, unless otherwise specified, the provisions of this act



1 shall become operative on the same date that the act  
2 takes effect pursuant to the California Constitution.

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