

**Assembly Bill No. 2674**

CHAPTER 661

An act to amend Section 23166 of the Vehicle Code, relating to driving under the influence.

[Approved by Governor September 20, 1998. Filed with Secretary of State September 21, 1998.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2674, Cardenas. Driving under the influence: penalties.

Existing law provides that if the court grants probation to any person convicted of a 2nd violation of the law prohibiting driving while under the influence of any alcoholic beverage or drug, or both, the court may impose as a condition of probation, among other things, that the person be confined in the county jail for at least 48 hours.

This bill would increase that minimum county jail time to at least 96 hours, to be served as specified. By increasing the penalty for an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. Section 23166 of the Vehicle Code is amended to read:

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

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

(b) All of the following:



(1) Be confined in the county jail for at least 96 hours, but not more than one year. A sentence of 96 hours of confinement shall be served in two increments consisting of a continuous 48 hours each. The two 48-hour increments may be served nonconsecutively.

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

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

Except as is specified in subparagraph (B) of paragraph (4), if the person gives proof of financial responsibility to the Department of Motor Vehicles, the Department of Motor Vehicles shall not suspend the person's privilege to operate a motor vehicle under Section 13352, as provided in Section 13352.5, unless the offense occurred in a vehicle requiring a driver with a class A or class B driver's license or with an endorsement prescribed in Section 15278.

(4) Either of the following:

(A) Enroll and participate, for at least 18 months subsequent to the date of the underlying violation and in a manner satisfactory to the court, in a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code, as designated by the court. The person shall complete the entire program subsequent to, and shall not be given any credit for any program activities completed prior to, the date of the current violation. The program shall provide for persons who cannot afford the program fee pursuant to paragraph (2) of subdivision (b) of Section 11837.4 of the Health and Safety Code in order to enable those persons to participate.

(B) Enroll and participate, for at least 30 months subsequent to the date of the underlying violation and in a manner satisfactory to the court, in a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code. The person shall complete the entire program subsequent to, and shall not be given any credit for any program activities completed prior to, the date of the current violation. A person ordered to treatment pursuant to this subparagraph shall apply to the court or to a board of review, as designated by the court, at the conclusion of the program to obtain the court's order of satisfaction. Only upon the granting of that order of satisfaction by the court may the program issue its certificate of successful completion and report



the completion to the Department of Motor Vehicles. A failure to obtain an order of satisfaction at the conclusion of the program is a violation of probation. In order to enable all required persons to participate, each person shall pay the program costs commensurate with the person's ability to pay as determined pursuant to Section 11837.4 of the Health and Safety Code. No condition of probation required pursuant to this subparagraph is a basis for reducing any other probation requirement or for avoiding the mandatory license revocation provisions of paragraph (5) of subdivision (a) of Section 13352.

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

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

