

## Senate Bill No. 1329

### CHAPTER 760

An act to amend Section 51226.6 of the Education Code, and to amend Sections 12507.1, 12509, 12514, 12660, and 12814.6 of, and to repeal Sections 12507 and 12512 of, the Vehicle Code, relating to vehicles.

[Approved by Governor October 7, 1997. Filed  
with Secretary of State October 8, 1997.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1329, Leslie. Vehicles: minors: provisional driver's license.

(1) Existing law requires that any driver's license issued to a person under 18 years of age be issued pursuant to a specified provisional licensing program. Among other things, the provisional licensing program requires (1) that the person hold a specified instruction permit for not less than 30 days prior to applying for a provisional driver's license, (2) that a 30-day restriction, as specified, be imposed when the person's record shows a violation point count, as specified, of 2 or more points in 12 months, and (3) that a 6-month suspension be imposed when the person's record shows a violation point count of 3 or more points in 12 months.

This bill would require the person to hold the specified instruction permit for not less than 6 months prior to applying for a provisional driver's license.

The bill would require the person to complete 50 hours of supervised driving practice prior to the issuance of a provisional license, with not less than 10 of those hours to include driving during darkness, as defined.

The bill would require that the provisional driver's license be subject to specified conditions, including that for the first 6 months after issuance of a provisional license the licensee not drive between the hours of 12:00 a.m. and 5:00 a.m. or transport passengers who are under 20 years of age, unless accompanied and supervised by a licensed driver who is the licensee's parent or guardian or a person older than 25 years of age and authorized by the parent or guardian to accompany and supervise the provisional licensee. During the second 6 months after issuance of a provisional license the licensee would be authorized to transport passengers under the age of 20 years between the hours of 5:00 a.m. and 12:00 a.m. without supervision. However, the restriction that the licensee not drive between the hours of 12:00 a.m. and 5:00 a.m. would continue to apply during this period.

The bill would provide exceptions to these restrictions based upon specified circumstances.

The bill would prohibit a law enforcement officer from stopping a vehicle for the sole purpose of determining whether the driver is in violation of the specified restrictions.

The provisions regarding the provisional driver's license program specified above would become operative on July 1, 1998.

The bill would delete obsolete provisions and would make other technical, nonsubstantive changes in existing law.

The bill would require a court to impose community service or specified fines upon a licensee violating certain of these provisions and would thereby impose a state-mandated local program by increasing the duties imposed upon local juvenile court officials and probation officers.

(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.

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

SECTION 1. Section 51226.6 of the Education Code is amended to read:

51226.6. (a) The State Department of Education shall develop and adopt a model curriculum framework for driver education and training that incorporates the rules and regulations adopted by the State Board of Education relating to driver education pursuant to Sections 41905 and 51850, and that is directed to preparing student drivers for compliance with paragraph (4) of subdivision (a) of Section 12814.6 of the Vehicle Code.

(b) The State Department of Education shall not be required to comply with the requirements of subdivision (a) unless federal funding is available to defray the cost of developing and adopting the model curriculum framework for driver training and education.

SEC. 2. Section 12507 of the Vehicle Code is repealed.

SEC. 3. Section 12507.1 of the Vehicle Code is amended to read:

12507.1. (a) (1) In enacting this section, it is the intent of the Legislature to implement a pilot program to study the safety and fiscal effects of allowing certain driving schools to conduct the provisional driver's license behind-the-wheel driving test.

(2) The adoption of departmental regulations, training of driving school instructors, and all other functions necessary to prepare for the implementation of the pilot program shall be performed by the department commencing on January 1, 1995.



(b) Commencing on January 1, 1996, the department may allow a driving school that has operated for at least two years in compliance with Chapter 1 (commencing with Section 11100) of Division 5 to administer the behind-the-wheel driving test portion of the examination required by subparagraph (D) of paragraph (1) of subdivision (a) of Section 12804.9 for a provisional driver's license for any person who is 16 years of age or older, but who is less than 18 years of age, if all of the following conditions apply:

(1) The applicant has complied with the requirements of paragraph (4) of subdivision (a) of Section 12814.6.

(2) The tests given by the driving school are the same as those that would otherwise be given by the department.

(3) The driving school enters into an agreement with the department containing, but not limited to, all of the following provisions:

(A) The department shall annually conduct onsite inspections of the testing operations, or more often as the department determines to be necessary.

(B) All driving school examiners shall meet all of the following qualifications:

(i) Have at least 500 hours of instructional experience as a driving school instructor.

(ii) Be at least 25 years of age.

(iii) Have the same qualification and training standards as the department's examiners, to the extent necessary to conduct the driving tests in compliance with department standards.

(C) No driving school examiner shall be qualified to administer the behind-the-wheel test where the individual to be tested has been previously instructed by that examiner in the operation of a vehicle.

(D) No driving school or driving school instructor shall condition the payment of a fee to the school by an applicant for receiving instruction in the operation of a vehicle or the administration of the behind-the-wheel driving test, or both, upon the passage or failure of the behind-the-wheel driving test.

(E) The driving school requires written assurances from an applicant's parent or guardian that the parent or guardian assumes liability for the applicant during the driving test.

(F) The department may cancel, suspend, or revoke the agreement with the driving school, upon giving 15 days' prior written notice of the proposed action to the driving school, if the department determines that the driving school is failing to comply with the standards for the behind-the-wheel driving test or with any other term of the agreement.

(4) A driving school that has had its agreement canceled, suspended, or revoked by order of the department may not administer a behind-the-wheel driving test during the period that the order is in effect.



(5) (A) Any driving school that has had its agreement canceled pursuant to subparagraph (F) of paragraph (3) may apply for a new agreement at any time.

(B) The suspension of an agreement pursuant to subparagraph (F) of paragraph (3) shall be for a term of not more than 12 months, as determined by the department in accordance with regulations adopted by the department. After the period of suspension has expired, the agreement shall be reinstated upon request of the driving school if the driving school is in compliance with this section.

(C) (i) The revocation of an agreement pursuant to subparagraph (F) of paragraph (3) shall be for a term of not less than one year. A driving school may apply for a new agreement after the period of revocation has expired, upon submission of proof to the department of correction of the deficiencies or violations that resulted in the revocation.

(ii) The department may permanently revoke an agreement pursuant to subparagraph (F) of paragraph (3) for repeated violations or repeated failures to comply with any standard or provision of the agreement.

(6) The department shall monitor the driving schools and evaluate the benefits and effects on traffic safety of the driving school testing program. The department shall periodically choose at random and retest driving school-certified provisional license applicants for the purposes of evaluating the program.

(7) Any provisional driver's license applicant who takes and passes a driving test administered by a driving school pursuant to this section shall provide the department with a certificate satisfactory to the department that the applicant has successfully passed the driving test.

(8) The department shall charge a fee not to exceed five dollars (\$5) for each certificate provided to the department by an applicant. The amount of the fee shall be sufficient to pay for the actual costs incurred by the department in connection with the monitoring of driving schools and retesting of license applicants pursuant to paragraph (6).

(9) (A) This paragraph applies only to driving schools that have administered both behind-the-wheel training and behind-the-wheel driving tests for at least 12 months.

(B) The department shall prohibit a driving school from continuing to administer behind-the-wheel driving tests if the department determines that the driving school has administered behind-the-wheel training and behind-the-wheel driving tests to applicants, the majority of whom have subsequently been subject to any of the following provisions:

- (i) Paragraph (6) of subdivision (a) of Section 12814.6.
- (ii) Paragraph (7) of subdivision (a) of Section 12814.6.
- (iii) Paragraph (9) of subdivision (a) of Section 12814.6.



(10) The establishment of driving school behind-the-wheel testing agreements may be implemented by the department on those dates that the department determines to be necessary to accomplish an orderly provisional driver's license testing program pursuant to this section.

(11) During each year of the pilot project authorized by this section, not more than 15,000 applicants for provisional driver's licenses may receive the behind-the-wheel driving test at a driving school that meets the criteria specified in this section.

(12) The department shall submit a report to the Legislature on the progress of the driving school testing program authorized pursuant to this section within three years after the date the program is implemented. The report shall compare subsequent driving records, including accidents, convictions, and failures to appear, for provisional driver's license applicants who have been tested by the driving schools and tested by the department. The report shall include, but shall not be limited to, an analysis of the costs and benefits of the program and shall include recommendations by the department.

(13) The director may terminate the driving school testing program at any time that the department determines that continued operation of the program would have an adverse effect on traffic safety. The finding upon which that determination is based shall be reported to the Legislature not later than 30 days after the termination of the program.

(c) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1999, deletes or extends that date.

SEC. 4. Section 12509 of the Vehicle Code is amended to read:

12509. (a) Except as otherwise provided in subdivision (f) of Section 12514, the department, for good cause, may issue an instruction permit to any physically and mentally qualified person who meets one of the following requirements and who applies to the department for an instruction permit:

(1) Is age 15 years and 6 months or over and has successfully completed approved courses in automobile driver education and driver training as provided in paragraph (4) of subdivision (a) of Section 12814.6.

(2) Is age 15 years and 6 months or over and has successfully completed an approved course in automobile driver education and is taking driver training as provided in paragraph (4) of subdivision (a) of Section 12814.6.

(3) Is age 15 years or over and is enrolled in an approved driver education course and is at the same time or during the same semester enrolled in an approved driver training course.

(4) Is over the age of 17 years and 6 months.



(b) An instruction permit issued pursuant to subdivision (a) shall entitle the applicant to operate a vehicle, subject to the limitations imposed by this section and any other provisions of law, upon the highways for a period not exceeding 12 months.

(c) Except as provided in paragraph (1) of subdivision (a) of Section 12814.6, any person, while having in his or her immediate possession a valid permit issued pursuant to subdivision (a), may operate a motor vehicle, other than a motorcycle or a motorized bicycle, when either taking the driver training instruction of a kind referred to in paragraph (4) of subdivision (a) of Section 12814.6, or when practicing that instruction, and when accompanied by, and under the immediate supervision of, a California licensed driver 18 years of age or over whose driving privilege is not on probation. Except as provided in subdivision (d), an accompanying licensed driver at all times shall occupy a position within the driver's compartment that would enable the accompanying licensed driver to assist the person in controlling the vehicle as may be necessary to avoid a collision and to provide immediate guidance in the safe operation of the vehicle.

(d) Any person while having in his or her immediate possession a valid permit issued pursuant to subdivision (a), who is age 15 years and 6 months or over and who has successfully completed approved courses in automobile education and driver training as provided in paragraph (4) of subdivision (a) of Section 12814.6, and any person while having in his or her immediate possession a valid permit issued pursuant to subdivision (a) who is age 17 years and 6 months or over, may, in addition to operating a motor vehicle pursuant to subdivision (c), also operate a motorcycle or a motorized bicycle, except that the person shall not operate a motorcycle or a motorized bicycle during hours of darkness, shall stay off any freeways that have full control of access and no crossings at grade and shall not carry any passenger except an instructor licensed under Chapter 1 (commencing with Section 11100) of Division 5 of this code or a qualified instructor as defined in Section 18252.2 of the Education Code.

(e) No student shall take driver training instruction unless he or she is at the same time taking driver education instruction or has successfully completed driver education.

(f) The department may also issue an instruction permit to a person who has been issued a valid driver's license to authorize the person to obtain driver training instruction and to practice that instruction in order to obtain another class of driver's license or an endorsement.

(g) The department may further restrict permits issued under subdivision (a) as it may determine to be appropriate to assure the safe operation of a motor vehicle by the permittee.

SEC. 5. Section 12512 of the Vehicle Code is repealed.

SEC. 6. Section 12514 of the Vehicle Code is amended to read:



12514. (a) Junior permits issued pursuant to Section 12513 shall not be valid for a period exceeding that established on the original request as the approximate date the minor's operation of a vehicle will no longer be necessary. In any event, no permit shall be valid on or after the 18th birthday of the applicant.

(b) The department may revoke any permit when to do so is necessary for the welfare of the minor or in the interests of safety.

(c) If conditions or location of residence, which required the minor's operation of a vehicle, change prior to expiration of the permit, the department may cancel the permit.

(d) Upon a determination that the permittee has operated a vehicle in violation of restrictions, the department shall revoke the permit.

(e) A junior permit is a form of driver's license that shall include all information required by subdivision (a) of Section 12811 except for an engraved picture or photograph of the permittee, and is subject to all provisions of this code applying to driver's licenses, except as otherwise provided in this section and Section 12513.

(f) An instruction permit valid for a period of not more than six months may be issued after eligibility has been established under Section 12513.

(g) The department shall cancel any permit six months from the date of issuance unless the permittee has complied with one of the conditions prescribed by paragraph (4) of subdivision (a) of Section 12814.6.

SEC. 7. Section 12660 of the Vehicle Code is amended to read:

12660. (a) The department may establish a program authorizing a driving school licensed pursuant to Chapter 1 (commencing with Section 11100) of Division 5 to issue a student license to operate a class 3 vehicle to any applicant 15 years of age or older, subject to the conditions specified in subdivision (d).

(b) The department may charge any driving school participating in the program a fee not to exceed two dollars (\$2) per applicant to recover the department's cost in establishing and monitoring the program. The fee that a participating school may charge an applicant for a student license may not exceed the fee which the department charges the school for the license.

(c) The department may remove a driving school from the program if the department determines that the school has issued a student license fraudulently, or has otherwise not followed the requirements of the program. This fraudulent conduct may result in cause for suspension or revocation of the driving school license.

(d) (1) Applicants shall meet the qualification standards specified in regulations adopted by the department pursuant to Section 12661. The student license application shall be accompanied by a statement signed by the parents or guardian, or person having



custody of the minor, consenting to the issuance of a student license to the applicant.

(2) No licensed driving school shall issue a student license to any applicant under the age of 17 years and six months unless that applicant shows either proof of enrollment in, or satisfactory completion of, an approved course in driver education, pursuant to standards specified in paragraph (4) of subdivision (a) of Section 12814.6.

(e) A driving school owner or an independent instructor licensed under Section 11105.5 shall maintain liability insurance for bodily injury or property damage caused by the use of a motor vehicle in driving instruction, and for the liability of the driving school, the instructor, and the student, in accordance with Section 11103.

(f) The department shall submit a report to the Legislature on the progress of the program established pursuant to subdivision (a) within two years after the program is implemented. The report shall include, but not be limited to, an analysis of the costs and benefits of the program and shall include recommendations by the department.

(g) The director may terminate the program at any time the department determines that continued operation of the program would have an adverse effect on traffic safety. The finding upon which the termination is based shall be reported to the Legislature within 30 days following termination of the program.

SEC. 8. Section 12814.6 of the Vehicle Code is amended to read:

12814.6. (a) Notwithstanding any other provision of law, any driver's license issued to a person under 18 years of age shall be issued pursuant to the provisional licensing program contained in this section. The program shall consist of all of the following components:

(1) Upon application for an original license, the applicant shall be issued an instruction permit pursuant to Section 12509. A person who has in his or her immediate possession a valid permit issued pursuant to Section 12509 may operate a motor vehicle, other than a motorcycle or motorized bicycle, subject to Section 12509 only if that person is accompanied by, and under the immediate supervision of, a driver who is 25 years of age or older, who holds a driver's license issued under this code, and whose driving privilege is not on probation. The age requirement of this paragraph does not apply if the licensed driver is the parent, spouse, or guardian of the permitholder or is a licensed or certified driving instructor.

(2) Before retaking a test, the person shall wait for not less than one week after failure of the written test and for not less than two weeks after failure of the driving test.

(3) The person shall hold an instruction permit for not less than six months prior to applying for a provisional driver's license.

(4) The person shall successfully complete an examination required by the department and shall have complied with one of the following:



(A) Satisfactory completion of approved courses in automobile driver education and driver training maintained pursuant to provisions of the Education Code in any secondary school of California, or equivalent instruction in a secondary school of another state.

(B) Satisfactory completion of six hours or more of behind-the-wheel instruction by a driving school or an independent driving instructor licensed under Chapter 1 (commencing with Section 11100) of Division 5 and either an accredited course in automobile driver education in any secondary school of California pursuant to provisions of the Education Code or satisfactory completion of equivalent professional instruction acceptable to the department. To be acceptable to the department, the professional instruction shall meet minimum standards to be prescribed by the department, which standards shall be at least equal to the requirements for driver education and training contained in the rules and regulations adopted by the State Board of Education pursuant to provisions of the Education Code. A person who has complied with this subdivision shall not be required by the governing board of a school district to comply with subparagraph (A) in order to graduate from high school.

(5) The person shall complete 50 hours of supervised driving practice prior to the issuance of a provisional license, which is in addition to any other driver training instruction required by law. Not less than 10 of the required practice hours shall include driving during darkness, as defined in Section 280. Upon application for a provisional license, the person shall submit to the department the certification of a parent, spouse, guardian, or licensed or certified driving instructor that the applicant has completed the required amount of driving practice and is prepared to take the department's driving test. A person without a parent, spouse, guardian, or who is an emancipated minor, may have a licensed driver 25 years of age or older or a licensed or certified driving instructor complete the certification. This requirement does not apply to motorcycle practice.

(6) The driving privilege shall be suspended when the record of the person shows one or more notifications issued pursuant to Section 40509 or Section 40509.5. The suspension shall continue until any notification issued pursuant to Section 40509 or 40509.5 has been cleared.

(7) A 30-day restriction shall be imposed when a driver's record shows a violation point count of two or more points in 12 months, as determined in accordance with Section 12810. The restriction shall require the licensee to be accompanied by a licensed parent, spouse, guardian, or other licensed driver 25 years of age or older, except when operating a class M vehicle, if so licensed, with no passengers aboard.



(8) The provisional driver's license shall be subject to all of the following restrictions:

(A) Except as specified in subparagraph (C), during the first six months after issuance of a provisional license the licensee shall not do any of the following unless accompanied and supervised by a licensed driver who is the licensee's parent or guardian, a licensed driver who is 25 years of age or older, or a licensed or certified driving instructor:

(i) Drive between the hours of 12:00 a.m. and 5:00 a.m.

(ii) Transport passengers who are under 20 years of age.

(B) During the second six months after issuance of a provisional license the licensee may transport passengers under the age of 20 years between the hours of 5:00 a.m. and 12:00 a.m. without supervision. This driving time restriction shall not modify or alter any local ordinance that restricts or prohibits cruising during specified proscribed hours. However, the restriction imposed under clause (i) of subparagraph (A) shall continue to apply during this period.

(C) A licensee may drive between the hours of 12:00 a.m. and 5:00 a.m. or transport an immediate family member without being accompanied and supervised by a licensed driver who is the licensee's parent or guardian, a licensed driver who is 25 years of age or older, or a licensed or certified driving instructor, in the following circumstances:

(i) Medical necessity of the licensee when reasonable transportation facilities are inadequate and operation of a vehicle by a minor is necessary. The licensee shall keep in his or her possession a signed statement from a physician familiar with the condition, containing a diagnosis and probable date when sufficient recovery will have been made to terminate the necessity.

(ii) Schooling or school-authorized activities of the licensee when reasonable transportation facilities are inadequate and operation of a vehicle by a minor is necessary. The licensee shall keep in his or her possession a signed statement from the school principal, dean, or school staff member designated by the principal or dean, containing a probable date that the schooling or school-authorized activity will have been completed.

(iii) Employment necessity of the licensee when reasonable transportation facilities are inadequate and operation of a vehicle by a minor is necessary. The licensee shall keep in his or her possession a signed statement from the employer, verifying employment and containing a probable date that the employment will have been completed.

(iv) Necessity of the licensee or the licensee's immediate family member when reasonable transportation facilities are inadequate and operation of a vehicle by a minor is necessary to transport the licensee or the licensee's immediate family member. The licensee shall keep in his or her possession a signed statement from a parent



or legal guardian verifying the reason and containing a probable date that the necessity will have ceased.

(v) The licensee is an emancipated minor.

(9) A six-month suspension of the driving privilege and a one-year term of probation shall be imposed whenever a licensee's record shows a violation point count of three or more points in 12 months, as determined in accordance with Section 12810. The terms and conditions of probation shall include, but not be limited to, both of the following:

(A) The person shall violate no law which, if resulting in conviction, is reportable to the department under Section 1803.

(B) The person shall remain free from accident responsibility.

(b) Any term of restriction or suspension of the driving privilege imposed on a person under this section shall remain in effect until the end of the term even though the person becomes 18 years of age before the term ends.

(c) Whenever action by the department under subdivision (a) arises as a result of a motor vehicle accident, the person may, in writing and within 10 days, demand a hearing to present evidence that he or she was not responsible for the accident upon which the action is based. Whenever action by the department is based upon a conviction reportable to the department under Section 1803, the person has no right to a hearing pursuant to Article 3 (commencing with Section 14100) of Chapter 3.

(d) The department shall require any person whose driving privilege is suspended or revoked pursuant to this section to submit proof of financial responsibility as defined in Section 16430. The proof of financial responsibility shall be filed on or before the date of reinstatement following the suspension or revocation. The proof of financial responsibility shall be maintained with the department for three years following the date of reinstatement.

(e) Notwithstanding any other provision of this code, the department may issue a distinctive driver's license, which displays a distinctive color or a distinctively colored stripe or other distinguishing characteristic, to persons 16 years of age and older but under 18 years of age, and to persons 18 years of age and older but under 21 years of age, so that the distinctive license feature is immediately recognizable. The features shall clearly differentiate between drivers' licenses issued to persons 16 years of age or older but under 18 years of age and to persons 18 years of age or older but under 21 years of age.

If changes in the format or appearance of drivers' licenses are adopted pursuant to this subdivision, those changes may be implemented under any new contract for the production of driver's licenses entered into after the adoption of those changes.

(f) A law enforcement officer shall not stop a vehicle for the sole purpose of determining whether the driver is in violation of the



restrictions imposed under subparagraph (A) or (B) of paragraph (8) of subdivision (a).

(g) (1) Upon a finding that any licensee has violated clause (i) or (ii) of subparagraph (A) of paragraph (8) of subdivision (a), the court shall impose one of the following:

(A) Not less than eight hours nor more than 16 hours of community service for a first offense and not less than 16 hours nor more than 24 hours of community service for a second or subsequent offense.

(B) A fine of not more than thirty-five dollars (\$35) for a first offense and a fine of not more than fifty dollars (\$50) for a second or subsequent offense.

(2) If the court orders community service, the court shall retain jurisdiction until the hours of community service have been completed.

(3) If the hours of community service have not been completed within 90 days, the court shall impose a fine of not more than thirty-five dollars (\$35) for a first offense and not more than fifty dollars (\$50) for a second or subsequent offense.

(h) The department shall include, on the face of the provisional driver's license, the original issuance date of the provisional driver's license in addition to any other issuance date.

(i) This section shall be known and may be cited as the Brady-Jared Teen Driver Safety Act of 1997.

(j) This section shall become operative on July 1, 1998.

SEC. 9. 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.

