

ASSEMBLY BILL

No. 2227

Introduced by Assembly Member Torlakson

February 24, 2000

An act to amend Section 11837 of the Health and Safety Code, and to add Section 23532 to the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2227, as introduced, Torlakson. Driving under the influence: alcohol and drug programs.

(1) Under existing law, any alcohol and drug treatment program licensed by the State Department of Alcohol and Drug Programs is allowed to provide treatment services to participants receiving at least 6 months of licensed program services in accordance with the terms and conditions of probation as a result of a certain first 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 (DUI).

This bill would require the county's approval as to the particular treatment service provided by the program in order for the alcohol and drug treatment program to offer the above services under the above-described circumstances. Because this would increase the level of services required of counties, this bill would impose a state-mandated local program.

(2) Under existing law, a person who is convicted of a DUI offense is required to be punished by specified terms of

imprisonment, fines, and other sanctions. The punishment is enhanced, including increased minimum and maximum fines, if a person is convicted of subsequent DUI violations occurring within specified years of prior violations.

This bill would require the Judicial Council to adjust the minimum and maximum amounts of the fines imposed for DUI violations by January 1 of each year by a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations.

The Judicial Council would also be required to annually publish the adjusted fine amounts.

(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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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 11837 of the Health and Safety
 2 Code is amended to read:
 3 11837. (a) Pursuant to the provisions of law relating
 4 to suspension of a person’s privilege to operate a motor
 5 vehicle upon conviction for driving while under the
 6 influence of any alcoholic beverage or drug, or under the
 7 combined influence of any alcoholic beverage and any
 8 drug, as set forth in paragraph (3) of subdivision (a) of
 9 Section 13352 of the Vehicle Code, the Department of
 10 Motor Vehicles shall restrict the driving privilege
 11 pursuant to Section 13352.5 of the Vehicle Code, if the



1 court has notified the department pursuant to Section
2 13352 of the Vehicle Code that the person convicted of
3 that offense has consented to participate for at least 18
4 months in a program designed to offer alcohol and other
5 drug education and counseling services that is licensed
6 pursuant to this chapter.

7 (b) In determining whether to refer a person, who is
8 ordered to participate in a program pursuant to Section
9 668 of the Harbors and Navigation Code, in a licensed
10 alcohol and other drug education and counseling services
11 program pursuant to Section 23538 of the Vehicle Code,
12 or, pursuant to Section 23542, 23548, 23552, 23556, 23562,
13 or 23568 of the Vehicle Code, in a licensed 18-month or
14 30-month program, the court may consider any relevant
15 information about the person made available pursuant to
16 a presentence investigation, that is permitted but not
17 required under Section 23655 of the Vehicle Code, or
18 other screening procedure. That information shall not be
19 furnished, however, by any person who also provides
20 services in a privately operated, licensed program or who
21 has any direct interest in a privately operated, licensed
22 program. In addition, the court shall obtain from the
23 Department of Motor Vehicles a copy of the person's
24 driving record to determine whether the person is
25 eligible to participate in a licensed 18-month or 30-month
26 program pursuant to this chapter. When preparing a
27 presentence report for the court, the probation
28 department may consider the suitability of placing the
29 defendant in a treatment program that includes the
30 administration of nonscheduled nonaddicting
31 medications to ameliorate an alcohol or controlled
32 substance problem. If the probation department
33 recommends that this type of program is a suitable option
34 for the defendant, the defendant who would like the
35 court to consider this option shall obtain from his or her
36 physician a prescription for the medication, and a finding
37 that the treatment is medically suitable for the defendant,
38 prior to consideration of this alternative by the court.

39 (c) (1) The court shall, as a condition of probation
40 pursuant to Section 23538 or 23556 of the Vehicle Code,



1 refer a first offender whose concentration of alcohol in his
2 or her blood was less than 0.20 percent, by weight, to
3 participate for at least three months or longer, as ordered
4 by the court, in a licensed program that consists of at least
5 30 hours of program activities, including those education,
6 group counseling, and individual interview sessions
7 described in this chapter.

8 (2) Notwithstanding any other provision of law, in
9 granting probation to a first offender described in this
10 subdivision whose concentration of alcohol in the
11 person's blood was 0.20 percent or more, by weight, or the
12 person refused to take a chemical test, the court shall
13 order the person to participate, for at least six months or
14 longer, as ordered by the court, in a licensed program that
15 consists of at least 45 hours of program activities,
16 including those education, group counseling, and
17 individual interview sessions described in this chapter.

18 (d) (1) The State Department of Alcohol and Drug
19 Programs shall specify in regulations the activities
20 required to be provided in the treatment of participants
21 receiving six months of licensed program services under
22 Section 23538 or 23556 of the Vehicle Code.

23 (2) Any program licensed pursuant to this chapter,
24 *with the county's approval as to the particular treatment*
25 *services provided*, may provide treatment services to
26 participants receiving at least six months of licensed
27 program services under Section 23538 or 23556 of the
28 Vehicle Code.

29 (e) The court may, subject to Section 11837.2, and as
30 a condition of probation, refer a person to a licensed
31 program, even though the person's privilege to operate
32 a motor vehicle is restricted, suspended, or revoked. An
33 18-month program described in Section 23542 or 23562 of
34 the Vehicle Code or a 30-month program described in
35 Section 23548, 23552, or 23568 of the Vehicle Code may
36 include treatment of family members and significant
37 other persons related to the convicted person with the
38 consent of those family members and others as described
39 in this chapter, if there is no increase in the costs of the
40 program to the convicted person.



1 (f) The clerk of the court shall indicate the duration of
2 the program in which the judge has ordered the person
3 to participate in the abstract of the record of the court
4 that is forwarded to the department.

5 SEC. 2. Section 23532 is added to the Vehicle Code, to
6 read:

7 23532. (a) The minimum and maximum amounts of
8 fines set forth in this chapter shall be adjusted by January
9 1 of each year by the Judicial Council by a rate not to
10 exceed any increase in the California Consumer Price
11 Index as compiled and reported by the California
12 Department of Industrial Relations.

13 (b) The Judicial Council shall annually publish the
14 adjusted fine amounts.

15 SEC. 3. Notwithstanding Section 17610 of the
16 Government Code, if the Commission on State Mandates
17 determines that this act contains costs mandated by the
18 state, reimbursement to local agencies and school
19 districts for those costs shall be made pursuant to Part 7
20 (commencing with Section 17500) of Division 4 of Title
21 2 of the Government Code. If the statewide cost of the
22 claim for reimbursement does not exceed one million
23 dollars (\$1,000,000), reimbursement shall be made from
24 the State Mandates Claims Fund.

