

AMENDED IN ASSEMBLY APRIL 12, 1999

AMENDED IN ASSEMBLY APRIL 5, 1999

AMENDED IN SENATE FEBRUARY 8, 1999

**SENATE BILL**

**No. 24**

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**Introduced by Committee on Public Safety (Senators Vasconcellos (chair), Burton, Johnston, McPherson, Polanco, and Rainey)**

December 7, 1998

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An act to amend Sections 11837 and 11837.1 of the Health and Safety Code, *to amend Section 1861.025 of the Insurance Code*, to amend Section 193.7 of the Penal Code, and to amend Sections 1661, 1803, 1803.4, 9553, 12802.5, 13106, 13350, 13350.5, 13352, 13352.4, 13352.5, 13353.2, 14601.2, 14601.3, 21200.5, 22651, 23247, 23546, 23550, 23550.5, 23552, 23566, 23568, 23572, 23577, 23600, 23602, 23640, 23650, 23655, and 23665 of, to repeal Sections 23198, 23522, 23524, and 23590 of, to amend and renumber Sections 23157, 23160, 23161, 23166, 23186, 23203, 23204, 23235, 23246, 23249.52, 23249.53, 23249.54, and 23249.55 of, to add and repeal Section 23198 of, to repeal and add Section 23596 of, and to repeal the heading of Article 4.5 (commencing with Section 23246) of Chapter 12 of Division 11 of, the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 24, as amended, Committee on Public Safety. Vehicles.

(1) Existing law makes it a crime to drive a vehicle while under the influence of alcohol, any drug, or a combination of



alcohol and any drug. Existing law also makes it a crime to drive a vehicle with a blood-alcohol content equal to or greater than a specified percentage or to drive a vehicle when addicted to the use of any drug (DUI offenses). Under the provisions of Chapter 118 of the Statutes of 1998 (SB 1186), operative on July 1, 1999, these DUI provisions will be reorganized, without substantive change. Other chapters of the Statutes of 1998 made various changes to certain of the same DUI statutes affected by the reorganized provisions.

This bill would correct certain cross-references and would provide clarifying cross-references and renumbering to these reorganized provisions. The bill would also make technical and conforming changes to certain of the DUI provisions affected by other chapters of the Statutes of 1998. The bill would delete certain duplicative provisions. These technical and clarifying changes and the changes described in (4) would become operative on July 1, 1999, the operative date of the reorganized provisions.

(2) *Existing provisions of the Insurance Code provide that a person is qualified to purchase a Good Driver Discount policy if the driver, among other things, during the previous 7 years has not been convicted of specified violations of the Vehicle Code and the Penal Code.*

*This bill would add to those violations specified former sections of the Vehicle Code.*

(3) Existing law requires the Department of Motor Vehicles to notify the registered owner of each vehicle of the date that the registration renewal fee of the vehicle is due, as specified. Existing law also provides for the removal and impoundment of a vehicle with a vehicle registration expiration in excess of 6 months.

This bill would require the department when providing the registered owner with any final notice of delinquent registration to include a warning that failure to properly register the vehicle may result in the vehicle's removal and impoundment.

~~(3)–~~

(4) Existing law authorizes peace officers and certain regularly employed and salaried employees engaged in traffic control matters of local agencies to remove vehicles under



specified circumstances, including vehicles found in certain public places with a registration expiration date in excess of 6 months, before the date it is found. However, as to occupied vehicles with a registration expiration date in excess of 6 months, only a peace officer may remove the vehicle.

This bill would revise these provisions to also authorize the removal of a vehicle that is operated in certain places with a registration expiration date in excess of 6 months.

~~(4)~~

(5) Existing law authorizes the Department of Motor Vehicles to issue restricted drivers' licenses to persons following their convictions of DUI offenses if those persons comply with specified conditions including enrollment and participation in, and completion of licensed alcohol and other drug education and counseling services programs, or the installation and maintenance of ignition interlock devices, or both.

This bill would require the department to terminate the restrictions and to suspend or revoke, as specified, the person's privilege to operate a motor vehicle upon notification from the program that the person has failed to comply with the program's requirements. The bill would make conforming changes.

The bill would also require the department to suspend a person's driving privilege for one year if the person is subject to the above ignition interlock device restriction and is convicted of operating a vehicle without a functioning ignition interlock device. The bill would make conforming changes.

The bill would require each person who is subject to an ignition interlock device restriction to have serviced, at least every 60 days, the device, as specified. The bill would require the installer who services these devices to notify the court if the device indicates that the person has attempted to remove, bypass, or tamper with the device, or if the person fails 3 or more times to comply with any requirement for the maintenance or calibration of the device. Because, under existing law, a violation of these provisions is a crime, this bill would impose a state-mandated local program by creating a new crime.



~~(5)~~

(6) 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.

~~(6)~~

(7) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: <sup>2</sup>/<sub>3</sub>. 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, as amended by Section 2.5 of Chapter 756 of the  
3 Statutes of 1998, is amended to read:

4 11837. (a) Pursuant to the provisions of law relating  
5 to suspension of a person’s privilege to operate a motor  
6 vehicle upon conviction for driving while under the  
7 influence of any alcoholic beverage or drug, or under the  
8 combined influence of any alcoholic beverage and any  
9 drug, as set forth in paragraph (3) of subdivision (a) of  
10 Section 13352 of the Vehicle Code, the Department of  
11 Motor Vehicles shall restrict the driving privilege  
12 pursuant to Section 13352.5 of the Vehicle Code, if the  
13 court has notified the department pursuant to Section  
14 13352 of the Vehicle Code that the person convicted of  
15 that offense has consented to participate for at least 18  
16 months in a program designed to offer alcohol and other  
17 drug education and counseling services that is licensed  
18 pursuant to this chapter.

19 (b) In determining whether to refer a person, who is  
20 ordered to participate in a program pursuant to Section  
21 668 of the Harbors and Navigation Code, in a licensed  
22 alcohol and other drug education and counseling services  
23 program pursuant to Section 23538 of the Vehicle Code,  
24 or, pursuant to Section 23542, 23548, 23552, 23556, 23562,  
25 or 23568 of the Vehicle Code, in a licensed 18-month or



1 30-month program, the court may consider any relevant  
2 information about the person made available pursuant to  
3 a presentence investigation, that is permitted but not  
4 required under Section 23655 of the Vehicle Code, or  
5 other screening procedure. That information shall not be  
6 furnished, however, by any person who also provides  
7 services in a privately operated, licensed program or who  
8 has any direct interest in a privately operated, licensed  
9 program. In addition, the court shall obtain from the  
10 Department of Motor Vehicles a copy of the person's  
11 driving record to determine whether the person is  
12 eligible to participate in a licensed 18-month or 30-month  
13 program pursuant to this chapter. When preparing a  
14 presentence report for the court, the probation  
15 department may consider the suitability of placing the  
16 defendant in a treatment program that includes the  
17 administration of nonscheduled nonaddicting  
18 medications to ameliorate an alcohol or controlled  
19 substance problem. If the probation department  
20 recommends that this type of program is a suitable option  
21 for the defendant, the defendant who would like the  
22 court to consider this option shall obtain from his or her  
23 physician a prescription for the medication, and a finding  
24 that the treatment is medically suitable for the defendant,  
25 prior to consideration of this alternative by the court.

26 (c) (1) The court shall, as a condition of probation  
27 pursuant to Section 23538 or 23556 of the Vehicle Code,  
28 refer a first offender whose concentration of alcohol in his  
29 or her blood was less than 0.20 percent, by weight, to  
30 participate for at least three months or longer, as ordered  
31 by the court, in a licensed program that consists of at least  
32 30 hours of program activities, including those education,  
33 group counseling, and individual interview sessions  
34 described in this chapter.

35 (2) Notwithstanding any other provision of law, in  
36 granting probation to a first offender described in this  
37 subdivision whose concentration of alcohol in the  
38 person's blood was 0.20 percent or more, by weight, or the  
39 person refused to take a chemical test, the court shall  
40 order the person to participate, for at least six months or



1 longer, as ordered by the court, in a licensed program that  
2 consists of at least 45 hours of program activities,  
3 including those education, group counseling, and  
4 individual interview sessions described in this chapter.

5 (d) (1) The State Department of Alcohol and Drug  
6 Programs shall specify in regulations the activities  
7 required to be provided in the treatment of participants  
8 receiving six months of licensed program services under  
9 Section 23538 or 23556 of the Vehicle Code.

10 (2) Any program licensed pursuant to this chapter  
11 may provide treatment services to participants receiving  
12 at least six months of licensed program services under  
13 Section 23538 or 23556 of the Vehicle Code.

14 (e) The court may, subject to Section 11837.2, and as  
15 a condition of probation, refer a person to a licensed  
16 program, even though the person's privilege to operate  
17 a motor vehicle is restricted, suspended, or revoked. An  
18 18-month program described in Section 23542 or 23562 of  
19 the Vehicle Code or a 30-month program described in  
20 Section 23548, 23552, or 23568 of the Vehicle Code may  
21 include treatment of family members and significant  
22 other persons related to the convicted person with the  
23 consent of those family members and others as described  
24 in this chapter, if there is no increase in the costs of the  
25 program to the convicted person.

26 (f) The clerk of the court shall indicate the duration of  
27 the program in which the judge has ordered the person  
28 to participate in the abstract of the record of the court  
29 that is forwarded to the department.

30 SEC. 2. Section 11837.1 of the Health and Safety Code,  
31 as amended by Section 3 of Chapter 756 of the Statutes of  
32 1998, is amended to read:

33 11837.1. (a) In utilizing any program described in  
34 Section 11837, the court may require periodic reports  
35 concerning the performance of each person referred to  
36 and participating in a program. The program shall  
37 provide the court, the Department of Motor Vehicles,  
38 and the person participating in a program with an  
39 immediate report of any failure of the person to comply  
40 with the program's rules and policies.



1 (b) If, at any time after entry into or while  
2 participating in a program, a participant who is referred  
3 to an 18-month program described in Section 23542 of the  
4 Vehicle Code or a 30-month program described in  
5 Section 23548, 23552, or 23568 of the Vehicle Code, fails to  
6 comply with the rules and policies of the program, and  
7 that fact is reported, the Department of Motor Vehicles  
8 shall suspend the privilege of that person to operate a  
9 motor vehicle for the period prescribed by law in  
10 accordance with Section 13352.5 of the Vehicle Code,  
11 except as otherwise provided in this section. The  
12 Department of Motor Vehicles shall notify the person of  
13 its action.

14 (c) If the department withdraws the license of a  
15 program, the department shall immediately notify the  
16 Department of Motor Vehicles of those persons who do  
17 not commence participation in a licensed program within  
18 21 days from the date of the withdrawal of the license of  
19 the program in which the persons were previously  
20 participating. The Department of Motor Vehicles shall  
21 suspend or revoke, for the period prescribed by law, the  
22 privilege to operate a motor vehicle of each of those  
23 persons referred to an 18-month program pursuant to  
24 Section 23542 or 23562 of the Vehicle Code or to a  
25 30-month program pursuant to Section 23548, 23552, or  
26 23568 of the Vehicle Code.

27 *SEC. 2.5. Section 1861.025 of the Insurance Code is*  
28 *amended to read:*

29 1861.025. A person is qualified to purchase a Good  
30 Driver Discount policy if he or she meets all of the  
31 following criteria:

32 (a) He or she has been licensed to drive a motor  
33 vehicle for the previous three years.

34 (b) During the previous three years, he or she has not  
35 done any of the following:

36 (1) Had more than one violation point count  
37 determined as provided by subdivision (a), (b), (c), (d),  
38 (e), (g), or (h) of Section 12810 of the Vehicle Code, but  
39 subject to the following modifications:

1 For the purposes of this section, the driver of a motor  
2 vehicle involved in an accident for which he or she was  
3 principally at fault ~~which~~ *that* resulted only in damage to  
4 property shall receive one violation point count, in  
5 addition to any other violation points which may be  
6 imposed for this accident.

7 If, under Section 488 or 488.5, an insurer is prohibited  
8 from increasing the premium on a policy on account of a  
9 violation, that violation shall not be included in  
10 determining the point count of the person.

11 If a violation is required to be reported under Section  
12 1816 of the Vehicle Code, or under Section 784 of the  
13 Welfare and Institutions Code, or any other provision  
14 requiring the reporting of a violation by a minor, the  
15 violation shall be included for the purposes of this section  
16 in determining the point count in the same manner as is  
17 applicable to adult violations.

18 (2) Had more than one dismissal pursuant to Section  
19 1803.5 of the Vehicle Code ~~which~~ *that* was not made  
20 confidential pursuant to Section 1808.7 of the Vehicle  
21 Code, in the 36-month period for violations that would  
22 have resulted in the imposition of more than one violation  
23 point count under paragraph (1) if the complaint had not  
24 been dismissed.

25 (3) Was the driver of a motor vehicle involved in an  
26 accident ~~which~~ *that* resulted in bodily injury or in the  
27 death of any person and was principally at fault. The  
28 commissioner shall adopt regulations setting guidelines to  
29 be used by insurers for the their determination of fault for  
30 the purposes of this paragraph and paragraph (1) ~~of~~  
31 ~~subdivision (b)~~.

32 (c) During the previous seven years, he or she has not  
33 been convicted of a violation of Section 23140, 23152, or  
34 23153; of the Vehicle Code, a felony violation of Section  
35 23550 or 23566, *or former Section 23175 or, as those*  
36 *sections read on January 1, 1999, of the Vehicle Code, or*  
37 a violation of Section 191.5 or paragraph (3) of subdivision  
38 (c) of Section 192 of the Penal Code.

39 (d) Any person who claims that he or she meets the  
40 criteria of subdivisions (a), (b), and (c) based entirely or



1 partially on a driver's license and driving experience  
2 acquired anywhere other than in the United States or  
3 Canada is rebuttably presumed to be qualified to  
4 purchase a ~~good driver discount~~ *Good Driver Discount*  
5 policy if he or she has been licensed to drive in the United  
6 States or Canada for at least the previous 18 months and  
7 meets the criteria of subdivisions (a), (b), and (c) for that  
8 period.

9 SEC. 3. Section 193.7 of the Penal Code is amended to  
10 read:

11 193.7. Any person convicted of a violation of  
12 paragraph (3) of subdivision (c) of Section 192 which  
13 occurred within seven years of two or more separate  
14 violations of Section 23103, as specified in Section 23103.5,  
15 of, or Section 23152 or 23153 of, the Vehicle Code, or any  
16 combination thereof, which resulted in convictions, shall  
17 be designated as an habitual traffic offender subject to  
18 paragraph (3) of subdivision (e) of Section 14601.3 of the  
19 Vehicle Code, for a period of three years, subsequent to  
20 the conviction. The person shall be advised of this  
21 designation pursuant to subdivision (b) of Section 13350  
22 of the Vehicle Code.

23 SEC. 4. Section 1661 of the Vehicle Code is amended  
24 to read:

25 1661. (a) The department shall notify the registered  
26 owner of each vehicle of the date that the registration  
27 renewal fee of the vehicle is due, at least 60 days prior to  
28 that due date.

29 (b) The department shall include in any final notice of  
30 delinquent registration provided to the registered owner  
31 of a vehicle whose registration has not been properly  
32 renewed as required under this code, information  
33 relating to the potential removal and impoundment of  
34 that vehicle under subdivision (o) of Section 22651.

35 SEC. 5. Section 1803 of the Vehicle Code, as amended  
36 by Section 4 of Chapter 756 of the Statutes of 1998, is  
37 amended to read:

38 1803. (a) Every clerk of a court in which a person was  
39 convicted of any violation of this code, was convicted of  
40 any violation of subdivision (a), (b), (c), (d), (e), or (f)



1 of Section 655 of the Harbors and Navigation Code  
2 pertaining to a mechanically propelled vessel but not to  
3 manipulating any water skis, an aquaplane, or similar  
4 device, was convicted of any violation of Section 655.2,  
5 655.6, 658, or 658.5 of the Harbors and Navigation Code,  
6 or any violation of Section 191.5 of the Penal Code when  
7 the conviction resulted from the operation of a vessel, was  
8 convicted of any offense involving use or possession of  
9 controlled substances under Division 10 (commencing  
10 with Section 11000) of the Health and Safety Code, was  
11 convicted of any felony offense when a commercial motor  
12 vehicle, as defined in subdivision (b) of Section 15210, was  
13 involved in or incidental to the commission of the offense,  
14 or was convicted of any violation of any other statute  
15 relating to the safe operation of vehicles, shall prepare  
16 within 10 days after conviction and immediately forward  
17 to the department at its office at Sacramento an abstract  
18 of the record of the court covering the case in which the  
19 person was so convicted. If sentencing is not pronounced  
20 in conjunction with the conviction, the abstract shall be  
21 forwarded to the department within 10 days after  
22 sentencing and the abstract shall be certified by the  
23 person so required to prepare it to be true and correct.

24 For the purposes of this section, a forfeiture of bail shall  
25 be equivalent to a conviction.

26 (b) The following violations are not required to be  
27 reported under subdivision (a):

28 (1) Division 3.5 (commencing with Section 9840).

29 (2) Section 21113, with respect to parking violations.

30 (3) Chapter 9 (commencing with Section 22500) of  
31 Division 11, except Section 22526.

32 (4) Division 12 (commencing with Section 24000),  
33 except Sections 24002, 24004, 24250, 24409, 24604, 24800,  
34 25103, 26707, 27151, 27315, 27360, 27800, and 27801 and  
35 Chapter 3 (commencing with Section 26301).

36 (5) Division 15 (commencing with Section 35000),  
37 except Chapter 5 (commencing with Section 35550).

38 (6) Violations for which a person was cited as a  
39 pedestrian or while operating a bicycle.

40 (7) Division 16.5 (commencing with Section 38000).



1 (8) Sections 23221, 23223, 23225, and 23226.

2 (c) If the court impounds a license, or orders a person  
3 to limit his or her driving pursuant to paragraph (2) of  
4 subdivision (a) of Section 23538, subdivision (b) of  
5 Section 23542, subdivision (b) of Section 23562, or  
6 subdivision (d) of Section 40508, the court shall notify the  
7 department concerning the impoundment or limitation  
8 on an abstract prepared pursuant to subdivision (a) of this  
9 section or on a separate abstract, which shall be prepared  
10 within 10 days after the impoundment or limitation was  
11 ordered and immediately forwarded to the department  
12 at its office in Sacramento.

13 (d) If the court determines that a prior judgment of  
14 conviction of a violation of Section 23152 or 23153 is valid  
15 or is invalid on constitutional grounds pursuant to Section  
16 41403, the clerk of the court in which the determination  
17 is made shall prepare an abstract of that determination  
18 and forward it to the department in the same manner as  
19 an abstract of record pursuant to subdivision (a).

20 (e) Within 10 days of an order terminating or revoking  
21 probation under Section 23602, the clerk of the court in  
22 which the order terminating or revoking probation was  
23 entered shall prepare and immediately forward to the  
24 department at its office in Sacramento an abstract of the  
25 record of the court order terminating or revoking  
26 probation and any other order of the court to the  
27 department required by law.

28 SEC. 6. Section 1803.4 of the Vehicle Code is amended  
29 to read:

30 1803.4. Any record regarding the providing of  
31 information pursuant to Section 13106, or record of  
32 persons personally given notice by the department or a  
33 court, by a peace officer pursuant to Section 13382 or  
34 13388, or otherwise pursuant to this code regarding the  
35 suspension or revocation of a person's privilege to operate  
36 a motor vehicle shall, upon request, be provided as  
37 follows:

38 (a) Immediately to any peace officer, as defined in  
39 Chapter 4.5 (commencing with Section 830) of Title 3 of



1 Part 2 of the Penal Code, acting within the scope of his or  
2 her duties.

3 (b) Clearly stated on the record provided to any court  
4 of this state.

5 SEC. 6.2. Section 9553 of the Vehicle Code is amended  
6 to read:

7 9553. (a) A penalty shall be added upon any  
8 application for renewal of registration or any application  
9 for renewal of special license plates made after midnight  
10 of the expiration date of the registration or special plates,  
11 except as provided in Section 4604 or 9706, or in  
12 subdivision (b).

13 (b) Except as provided in subdivision (c), when  
14 renewal fee penalties have not accrued with respect to a  
15 vehicle and the vehicle is transferred, the transferee has  
16 20 days from the date of the transfer to pay the  
17 registration fees which become due without payment of  
18 any penalties that otherwise would be required under  
19 subdivision (a) or to file a certification pursuant to  
20 subdivision (a) of Section 4604 if the vehicle will not be  
21 operated, moved, or left standing upon any highway  
22 during the subsequent registration year without first  
23 making application for registration of the vehicle,  
24 including full payment of all fees.

25 (c) (1) A dealer or lessor-retailer submitting an  
26 application for registration or transfer of a used vehicle  
27 shall have 30 days from the date of sale to submit the fees,  
28 without the penalty that otherwise would be required  
29 under subdivision (a).

30 (2) This subdivision does not apply to penalties due or  
31 accrued prior to the date of sale by the dealer or  
32 lessor-retailer.

33 (d) If the fee specified in Sections 9255 and 9257 is not  
34 paid within 20 days after it becomes delinquent, a penalty  
35 shall be added thereto.

36 (e) In addition to the imposition of monetary fines or  
37 fees as specified in this section, delinquent registration  
38 may result in impoundment of the vehicle pursuant to  
39 Section 22651.



1 SEC. 7. Section 12802.5 of the Vehicle Code is  
2 amended to read:

3 12802.5. Before issuing a driver's license or permit to  
4 any person under 21 years of age, both of the following  
5 shall occur:

6 (a) The department shall inform the applicant of the  
7 following:

8 (1) It is unlawful to drive with a blood-alcohol  
9 concentration of 0.01 percent or greater, as measured by  
10 a preliminary alcohol screening test or other chemical  
11 test.

12 (2) The penalty for so driving is a one-year suspension  
13 of the driving privilege.

14 (3) A refusal to take, or a failure to complete, a  
15 preliminary alcohol screening test or other chemical test  
16 for the purpose of determining the level of alcohol  
17 pursuant to Section 13388 shall result in a one-year  
18 suspension of the driving privilege.

19 (4) The fee for reissuance of a driver's license after  
20 suspension for a violation of Section 23136 is one hundred  
21 dollars (\$100). This fee is in addition to any other fees that  
22 may be imposed by the department in connection with  
23 reissuance of a driver's license.

24 (b) The applicant shall sign a statement that  
25 acknowledges that he or she has been notified of the  
26 information specified in subdivision (a).

27 SEC. 8. Section 13106 of the Vehicle Code is amended  
28 to read:

29 13106. (a) When the privilege of a person to operate  
30 a motor vehicle is suspended or revoked, the department  
31 shall notify the person by certified mail, return receipt  
32 requested, of the action taken and of the effective date  
33 thereof, except for those persons personally given notice  
34 by the department or a court, by a peace officer pursuant  
35 to Section 13388 or 13382, or otherwise pursuant to this  
36 code. It shall be conclusively presumed that a person has  
37 knowledge of the suspension or revocation if notice has  
38 been sent by certified mail by the department pursuant  
39 to this section to the most recent address reported to the  
40 department pursuant to Section 14600, and the return



1 receipt has been signed and returned to the department.  
2 It is the responsibility of every holder of a driver's license  
3 to report changes of address to the department pursuant  
4 to Section 14600.

5 (b) The department may utilize alternative methods  
6 for determining the whereabouts of a driver, whose  
7 driving privilege has been suspended or revoked under  
8 this code, for the purpose of providing the driver with  
9 notice of suspension or revocation. Alternative methods  
10 may include, but are not limited to, cooperating with  
11 other state agencies that maintain more current address  
12 information than the department's driver's license files.

13 (c) At the time of license reinstatement, the  
14 department shall recover, through fees authorized  
15 pursuant to Section 14906, an amount equal to its total  
16 costs of providing notices pursuant to this section.

17 SEC. 9. Section 13350 of the Vehicle Code is amended  
18 to read:

19 13350. (a) The department immediately shall revoke  
20 the privilege of any person to drive a motor vehicle upon  
21 receipt of a duly certified abstract of the record of any  
22 court showing that the person has been convicted of any  
23 of the following crimes or offenses:

24 (1) Failure of the driver of a vehicle involved in an  
25 accident resulting in injury or death to any person to stop  
26 or otherwise comply with Section 20001.

27 (2) Any felony in the commission of which a motor  
28 vehicle is used, except as provided in Section 13351, 13352,  
29 or 13357.

30 (3) Reckless driving causing bodily injury.

31 (b) If a person is convicted of a violation of Section  
32 23152 punishable under Section 23546, 23550, or 23550.5,  
33 or a violation of Section 23153 punishable under Section  
34 23566, including a violation of paragraph (3) of  
35 subdivision (c) of Section 192 of the Penal Code as  
36 provided in Section 193.7 of that code, the court shall, at  
37 the time of surrender of the driver's license or temporary  
38 permit, require the defendant to sign an affidavit in a  
39 form provided by the department acknowledging his or  
40 her understanding of the revocation required by



1 paragraph (5), (6), or (7) of subdivision (a) of Section  
2 13352, and an acknowledgment of his or her designation  
3 as an habitual traffic offender. A copy of this affidavit shall  
4 be transmitted, with the license or temporary permit, to  
5 the department within the prescribed 10 days.

6 (c) The department shall not reinstate the privilege  
7 revoked under subdivision (a) until the expiration of one  
8 year after the date of revocation and until the person  
9 whose privilege was revoked gives proof of financial  
10 responsibility as defined in Section 16430.

11 SEC. 10. Section 13350.5 of the Vehicle Code is  
12 amended to read:

13 13350.5. Notwithstanding Section 13350, for the  
14 purposes of this article, conviction of a violation of  
15 paragraph (3) of subdivision (c) of Section 192 of the  
16 Penal Code is a conviction of a violation of Section 23153.

17 SEC. 11. Section 13352 of the Vehicle Code is  
18 amended to read:

19 13352. (a) The department shall immediately  
20 suspend or revoke, or record the court-administered  
21 suspension or revocation of, the privilege of any person  
22 to operate a motor vehicle upon receipt of a duly certified  
23 abstract of the record of any court showing that the  
24 person has been convicted of a violation of Section 23152  
25 or 23153 or subdivision (a) of Section 23109, or upon  
26 receipt of a report of a judge of the juvenile court, a  
27 juvenile traffic hearing officer, or a referee of a juvenile  
28 court showing that the person has been found to have  
29 committed a violation of Section 23152 or 23153 or  
30 subdivision (a) of Section 23109. If any offense specified  
31 in this section occurs in a vehicle defined in Section 15210,  
32 the suspension or revocation specified below shall apply  
33 to the noncommercial driving privilege. The commercial  
34 driving privilege shall be disqualified as specified in  
35 Sections 15300 to 15302, inclusive. For the purposes of this  
36 section, suspension or revocation shall be as follows:

37 (1) Upon a conviction or finding of a violation of  
38 Section 23152 punishable under Section 23536, the  
39 privilege shall be suspended for a period of six months.  
40 The privilege shall not be reinstated until the person



1 gives proof of ability to respond in damages and gives  
2 proof satisfactory to the department of successful  
3 completion of a program described in subdivision (b) of  
4 Section 23538. The department shall issue a restricted  
5 license upon receipt of an abstract of record from the  
6 court certifying the court has granted probation to the  
7 person based on the conditions specified in paragraph (2)  
8 of subdivision (a) of, and subdivision (b) of, Section  
9 23538.

10 (2) Upon a conviction or finding of a violation of  
11 Section 23153 punishable under Section 23554, the  
12 privilege shall be suspended for a period of one year. The  
13 privilege shall not be reinstated until the person gives  
14 proof of ability to respond in damages and gives proof  
15 satisfactory to the department of successful completion of  
16 a program described in Section 23556.

17 (3) Except as provided in Section 13352.5, upon a  
18 conviction or finding of a violation of Section 23152  
19 punishable under Section 23540, the privilege shall be  
20 suspended for two years. The privilege shall not be  
21 reinstated until the person gives proof of ability to  
22 respond in damages and gives proof satisfactory to the  
23 department of successful completion of a program  
24 described in Section 23542. For the purposes of this  
25 paragraph, enrollment, participation, and completion of  
26 an approved program shall be subsequent to the date of  
27 the current violation. No credit shall be given to any  
28 program activities completed prior to the date of the  
29 current violation. The department shall advise the person  
30 that after completion of 12 months of the suspension  
31 period, the person may apply to the department for a  
32 restricted driver's license, subject to the following  
33 conditions:

34 (A) The person has satisfactorily provided, subsequent  
35 to the current underlying conviction, either of the  
36 following:

37 (i) Proof of enrollment in a licensed 18-month  
38 program pursuant to Section 11836 of the Health and  
39 Safety Code.



1 (ii) Proof of enrollment in a licensed 30-month  
2 program, if available in the county of the person's  
3 residence or employment, pursuant to Section 11836 of  
4 the Health and Safety Code.

5 (B) The person agrees, as a condition of the restriction,  
6 to continue satisfactory participation in the program  
7 described in subparagraph (A).

8 (C) The person submits the "Verification of  
9 Installation" form described in paragraph (2) of  
10 subdivision (e) of Section 13386.

11 (D) The person agrees to maintain the ignition  
12 interlock device as required under subdivision (g) of  
13 Section 23575.

14 (E) The person provides proof of financial  
15 responsibility, as defined in Section 16430.

16 (F) The person pays all administrative fees or reissue  
17 fees and any restriction fee required by the department.

18 (G) The restriction shall remain in effect for the  
19 period required in subdivision (f) of Section 23575.

20 (4) Except as provided in this paragraph, upon a  
21 conviction or finding of a violation of Section 23153  
22 punishable under Section 23560, the privilege shall be  
23 revoked for a period of three years. The privilege shall not  
24 be reinstated until evidence satisfactory to the  
25 department establishes that no grounds exist that would  
26 authorize the refusal to issue a license, the person gives  
27 proof of ability to respond in damages, and the person  
28 gives proof satisfactory to the department of successful  
29 completion of a program described in Section 23562. For  
30 the purposes of this paragraph, enrollment, participation,  
31 and completion of an approved program shall be  
32 subsequent to the date of the current violation. No credit  
33 shall be given to any program activities completed prior  
34 to the date of the current violation. The department shall  
35 advise the person that after the completion of 18 months  
36 of the revocation period, the person may apply to the  
37 department for a restricted driver's license, subject to the  
38 following conditions:



1 (A) The person has satisfactorily completed,  
2 subsequent to the current underlying conviction, either  
3 of the following:  
4 (i) A licensed 18-month program pursuant to Section  
5 11836 of the Health and Safety Code.  
6 (ii) The initial 18 months of a licensed 30-month  
7 program, if available in the county of the person's  
8 residence or employment, pursuant to Section 11836 of  
9 the Health and Safety Code, and the person agrees, as a  
10 condition of the restriction, to continue satisfactory  
11 participation in that 30-month program.  
12 (B) The person submits the "Verification of  
13 Installation" form described in paragraph (2) of  
14 subdivision (e) of Section 13386.  
15 (C) The person agrees to maintain the ignition  
16 interlock device as required under subdivision (g) of  
17 Section 23575.  
18 (D) The person provides proof of financial  
19 responsibility, as defined in Section 16430.  
20 (E) The person pays all applicable reinstatement or  
21 reissue fees and any restriction fee required by the  
22 department.  
23 (F) The restriction shall remain in effect for the period  
24 required in subdivision (f) of Section 23575.  
25 (5) Except as provided in this paragraph, upon a  
26 conviction or finding of a violation of Section 23152  
27 punishable under Section 23546, the privilege shall be  
28 revoked for a period of three years. The privilege shall not  
29 be reinstated until the person files proof of ability to  
30 respond in damages and gives proof satisfactory to the  
31 department of successful completion of one of the  
32 following programs: an 18-month program or, if available  
33 in the county of the person's residence or employment,  
34 a 30-month program licensed pursuant to Section 11836  
35 of the Health and Safety Code, or a program specified in  
36 Section 8001 of the Penal Code. For the purposes of this  
37 paragraph, enrollment, participation, and completion of  
38 an approved program shall be subsequent to the date of  
39 the current violation. No credit shall be given to any  
40 program activities completed prior to the date of the



1 current violation. The department shall advise the person  
2 that after completion of 18 months of the revocation  
3 period, the person may apply to the department for a  
4 restricted driver's license, subject to the following  
5 conditions:

6 (A) The person has satisfactorily completed,  
7 subsequent to the current underlying conviction, either  
8 of the following:

9 (i) A licensed 18-month program pursuant to Section  
10 11836 of the Health and Safety Code.

11 (ii) The initial 18 months of a licensed 30-month  
12 program, if available in the county of the person's  
13 residence or employment, pursuant to Section 11836 of  
14 the Health and Safety Code.

15 The person agrees, as a condition of the restriction, to  
16 continue satisfactory participation in the 30-month  
17 program.

18 (B) The person submits the "Verification of  
19 Installation" form described in paragraph (2) of  
20 subdivision (e) of Section 13386.

21 (C) The person agrees to maintain the ignition  
22 interlock device as required under subdivision (g) of  
23 Section 23575.

24 (D) The person provides proof of financial  
25 responsibility, as defined in Section 16430.

26 (E) Any individual convicted of a violation of Section  
27 23152 punishable under Section 23546 may also, at any  
28 time after sentencing, petition the court for referral to an  
29 18-month program or, if available in the county of the  
30 person's residence or employment, a 30-month program  
31 licensed pursuant to Section 11836 of the Health and  
32 Safety Code. Unless good cause is shown, the court shall  
33 order the referral.

34 (F) The person pays all applicable reinstatement or  
35 reissue fees and any restriction fee required by the  
36 department.

37 (G) The restriction shall remain in effect for the  
38 period required in subdivision (f) of Section 23575.

39 (6) Except as provided in this paragraph, upon a  
40 conviction or finding of a violation of Section 23153



1 punishable under Section 23566, the privilege shall be  
2 revoked for a period of five years. The privilege shall not  
3 be reinstated until evidence satisfactory to the  
4 department establishes that no grounds exist that would  
5 authorize the refusal to issue a license, and the person  
6 gives proof of ability to respond in damages and proof  
7 satisfactory to the department of successful completion of  
8 one of the following programs: a 30-month program, if  
9 available in the county of the person's residence or  
10 employment or, if not available, an 18-month program  
11 licensed pursuant to Section 11836 of the Health and  
12 Safety Code, or a program specified in Section 8001 of the  
13 Penal Code. For the purposes of this paragraph,  
14 enrollment, participation, and completion of an  
15 approved program shall be subsequent to the date of the  
16 current violation. No credit shall be given to any program  
17 activities completed prior to the date of the current  
18 violation. The department shall advise the person that  
19 after the completion of 30 months of the revocation  
20 period, the person may apply to the department for a  
21 restricted driver's license, subject to the following  
22 conditions:

23 (A) The person has satisfactorily completed,  
24 subsequent to the current underlying conviction, either  
25 of the following:

26 (i) The initial 18 months of a licensed 30-month  
27 program, if available in the county of the person's  
28 residence or employment, pursuant to Section 11836 of  
29 the Health and Safety Code.

30 The person agrees, as a condition of the restriction, to  
31 continue satisfactory participation in the 30-month  
32 program.

33 (ii) A licensed 18-month program pursuant to Section  
34 11836 of the Health and Safety Code, if a 30-month  
35 program is unavailable in the person's county of  
36 residence or employment.

37 (B) The person submits the "Verification of  
38 Installation" form described in paragraph (2) of  
39 subdivision (e) of Section 13386.



1 (C) The person agrees to maintain the ignition  
2 interlock device as required under subdivision (g) of  
3 Section 23575.

4 (D) The person provides proof of financial  
5 responsibility, as defined in Section 16430.

6 (E) Any individual convicted of a violation of Section  
7 23153 punishable under Section 23566 may also, at any  
8 time after sentencing, petition the court for referral to an  
9 18-month program or, if available in the county of the  
10 person's residence or employment, a 30-month program  
11 licensed pursuant to Section 11836 of the Health and  
12 Safety Code. Unless good cause is shown, the court shall  
13 order the referral.

14 (F) The person pays all applicable reinstatement or  
15 reissue fees and any restriction fee required by the  
16 department.

17 (G) The restriction shall remain in effect for the  
18 period required in subdivision (f) of Section 23575.

19 (7) Except as provided in this paragraph, upon a  
20 conviction or finding of a violation of Section 23152  
21 punishable under Section 23550 or 23550.5, the privilege  
22 shall be revoked for a period of four years. The privilege  
23 shall not be reinstated until evidence satisfactory to the  
24 department establishes that no grounds exist that would  
25 authorize the refusal to issue a license, and the person  
26 gives proof of ability to respond in damages and proof  
27 satisfactory to the department of successful completion of  
28 one of the following programs: an 18-month program or,  
29 if available in the county of the person's residence or  
30 employment, a 30-month program licensed pursuant to  
31 Section 11836 of the Health and Safety Code, or a program  
32 specified in Section 8001 of the Penal Code. For the  
33 purposes of this paragraph, enrollment, participation,  
34 and completion of an approved program shall be  
35 subsequent to the date of the current violation. No credit  
36 shall be given to any program activities completed prior  
37 to the date of the current violation. The department shall  
38 advise the person that after the completion of 24 months  
39 of the revocation period, the person may apply to the



1 department for a restricted driver's license, subject to the  
2 following conditions:

3 (A) The person has satisfactorily completed,  
4 subsequent to the current underlying conviction, either  
5 of the following:

6 (i) A licensed 18-month program pursuant to Section  
7 11836 of the Health and Safety Code.

8 (ii) The initial 18 months of a licensed 30-month  
9 program, if available in the county of the person's  
10 residence or employment, pursuant to Section 11836 of  
11 the Health and Safety Code. The person agrees, as a  
12 condition of the restriction, to continue satisfactory  
13 participation in the 30-month program.

14 (B) The person submits the "Verification of  
15 Installation" form described in paragraph (2) of  
16 subdivision (e) of Section 13386.

17 (C) The person agrees to maintain the ignition  
18 interlock device as required under subdivision (g) of  
19 Section 23575.

20 (D) The person provides proof of financial  
21 responsibility, as defined in Section 16430.

22 (E) Any individual convicted of a violation of Section  
23 23152 punishable under Section 23550 may also, at any  
24 time after sentencing, petition the court for referral to an  
25 18-month program or, if available in the county of the  
26 person's residence or employment, a 30-month program  
27 licensed pursuant to Section 11836 of the Health and  
28 Safety Code. Unless good cause is shown, the court shall  
29 order the referral.

30 (F) The person pays all applicable reinstatement or  
31 reissue fees and any restriction fee required by the  
32 department.

33 (G) The restriction shall remain in effect for the  
34 period required in subdivision (f) of Section 23575.

35 (8) Upon a conviction or finding of a violation of  
36 subdivision (a) of Section 23109 punishable under  
37 subdivision (e) of that section, the privilege shall be  
38 suspended for a period of 90 days to six months, if and as  
39 ordered by the court.



1 (9) Upon a conviction or finding of a violation of  
2 subdivision (a) of Section 23109 punishable under  
3 subdivision (f) of that section, the privilege shall be  
4 suspended for a period of six months, if the court orders  
5 the department to suspend the privilege. The privilege  
6 shall not be reinstated until the person gives proof of  
7 ability to respond in damages.

8 (b) For the purpose of paragraphs (2) to (9), inclusive,  
9 of subdivision (a), the finding of the juvenile court judge,  
10 the juvenile traffic hearing officer, or the referee of a  
11 juvenile court of a commission of a violation of Section  
12 23152 or 23153 or subdivision (a) of Section 23109, as  
13 specified in subdivision (a) of this section, is a conviction.

14 (c) Each judge of a juvenile court, juvenile traffic  
15 hearing officer, or referee of a juvenile court shall  
16 immediately report the findings specified in subdivision  
17 (a) to the department.

18 (d) A conviction of an offense in any state, territory, or  
19 possession of the United States, the District of Columbia,  
20 the Commonwealth of Puerto Rico, or Canada that, if  
21 committed in this state, would be a violation of Section  
22 23152, is a conviction of Section 23152 for purposes of this  
23 section, and a conviction of an offense that, if committed  
24 in this state, would be a violation of Section 23153, is a  
25 conviction of Section 23153 for purposes of this section.  
26 The department shall suspend or revoke the privilege to  
27 operate a motor vehicle pursuant to this section upon  
28 receiving notice of that conviction.

29 (e) For the purposes of the restriction conditions  
30 specified in paragraphs (3) to (7), inclusive, of  
31 subdivision (a), the department shall terminate the  
32 restriction imposed pursuant to this section and shall  
33 suspend or revoke the person's driving privilege to  
34 operate a motor vehicle upon receipt of notification from  
35 the program that the person has failed to comply with the  
36 program requirements. The person's driving privilege  
37 shall remain suspended or revoked for the remaining  
38 period of the originating suspension or revocation and  
39 until all reinstatement requirements described in this  
40 section are met.



1 SEC. 12. Section 13352.4 of the Vehicle Code, as  
2 amended by Chapter 756 of the Statutes of 1998, is  
3 amended to read:

4 13352.4. (a) The department shall require a person  
5 upon whom the court has imposed the condition of  
6 probation required by subdivision (b) of Section 23538 to  
7 submit proof of the satisfactory completion of a program  
8 licensed pursuant to Section 11836 of the Health and  
9 Safety Code or of a program defined in Section 8001 of the  
10 Penal Code, within a time period set by the department,  
11 beginning from the date of a conviction or a finding by a  
12 court of a violation of Section 23152.

13 (b) The department shall suspend the privilege to  
14 drive of any person who is not in compliance with  
15 subdivision (a).

16 (c) The department may suspend the privilege to  
17 drive of any person for failure to file proof of financial  
18 responsibility when the person has been ordered by the  
19 court to do so. The suspension shall remain in effect until  
20 adequate proof of financial responsibility is filed with the  
21 department by the person.

22 (d) The department shall not restore the privilege to  
23 operate a motor vehicle after a suspension pursuant to  
24 subdivision (b) until the department receives proof of the  
25 completion of a program pursuant to subdivision (a) that  
26 the department finds satisfactory.

27 SEC. 13. Section 13352.5 of the Vehicle Code, as added  
28 by Section 7 of Chapter 756 of the Statutes of 1998, is  
29 amended to read:

30 13352.5. (a) The department shall issue a restricted  
31 driver's license to a person granted probation under the  
32 conditions described in subdivision (b) of Section 23542  
33 instead of suspending that person's license, if the person  
34 meets all of the following requirements:

35 (1) Submits proof of enrollment in, or completion of,  
36 a drug and alcohol treatment program described in  
37 paragraph (4) of subdivision (b) of Section 23542.

38 (2) Submits proof of financial responsibility, as  
39 described in Section 16430.



1 (3) Pays all applicable reinstatement or reissue fees  
2 and any restriction fee required by the department.

3 (b) The restriction of the driving privilege shall  
4 become effective when the department receives all of the  
5 documents and fees required under subdivision (a) and  
6 shall remain in effect for the duration of the treatment  
7 program described in paragraph (4) of subdivision (b) of  
8 Section 23542.

9 (c) The restriction of the driving privilege shall be  
10 limited to the hours necessary for driving to and from the  
11 place of employment, driving during the course of  
12 employment, and driving to and from activities required  
13 in the treatment program.

14 (d) Whenever the driving privilege is restricted under  
15 this section, proof of financial responsibility, as defined in  
16 Section 16430, shall be maintained for three years. If the  
17 person does not maintain that proof of financial  
18 responsibility at any time during the restriction, the  
19 driving privilege shall be suspended until proof pursuant  
20 to Section 16484 is received by the department.

21 (e) The restriction imposed under this section may be  
22 removed when the person presents evidence satisfactory  
23 to the department that the person has completed the  
24 drug and alcohol treatment program. For the purposes of  
25 this section, enrollment, participation, and completion of  
26 an approved program shall be subsequent to the date of  
27 the current violation. No credit shall be given to any  
28 program activities completed prior to the date of the  
29 current violation.

30 (f) The department shall immediately terminate the  
31 restriction imposed pursuant to this section and shall  
32 suspend the privilege to drive under paragraph (3) of  
33 subdivision (a) of Section 13352 upon receipt of  
34 notification from the treatment program that the person  
35 has failed to comply with the program requirements.

36 (g) Twelve months after the date of conviction, the  
37 offender may apply to the department for a restricted  
38 driver's license, subject to the conditions specified in  
39 paragraph (3) of subdivision (a) of Section 13352.  
40 Whenever proof of financial responsibility has already



1 been provided in compliance with restrictions described  
2 in this section, and the offender subsequently receives an  
3 ignition interlock device restriction described in  
4 paragraph (3) of subdivision (a) of Section 13352, the  
5 proof of financial responsibility period shall not be  
6 extended beyond the previously established term.

7 SEC. 14. Section 13353.2 of the Vehicle Code, as  
8 amended by Section 3.12 of Chapter 118 of the Statutes of  
9 1998, is amended to read:

10 13353.2. (a) The department shall immediately  
11 suspend the privilege of any person to operate a motor  
12 vehicle for any one of the following reasons:

13 (1) The person was driving a motor vehicle when the  
14 person had 0.08 percent or more, by weight, of alcohol in  
15 his or her blood.

16 (2) The person was under 21 years of age and had a  
17 blood-alcohol concentration of 0.01 percent or greater, as  
18 measured by a preliminary alcohol screening test, or  
19 other chemical test.

20 (b) The notice of the order of suspension under this  
21 section shall be served on the person by a peace officer  
22 pursuant to Section 13388 or 13382. The notice of the  
23 order of suspension shall be on a form provided by the  
24 department. If the notice of the order of suspension has  
25 not been served upon the person by the peace officer  
26 pursuant to Section 13388 or 13382, upon the receipt of  
27 the report of a peace officer submitted pursuant to  
28 Section 13380, the department shall mail written notice  
29 of the order of the suspension to the person at the last  
30 known address shown on the department's records and,  
31 if the address of the person provided by the peace  
32 officer's report differs from the address of record, to that  
33 address.

34 (c) The notice of the order of suspension shall clearly  
35 specify the reason and statutory grounds for the  
36 suspension, the effective date of the suspension, the right  
37 of the person to request an administrative hearing, the  
38 procedure for requesting an administrative hearing, and  
39 the date by which a request for an administrative hearing



1 shall be made in order to receive a determination prior  
2 to the effective date of the suspension.

3 (d) The department shall make a determination of the  
4 facts in subdivision (a) on the basis of the report of a peace  
5 officer submitted pursuant to Section 13380. The  
6 determination of the facts, after administrative review  
7 pursuant to Section 13557, by the department is final,  
8 unless an administrative hearing is held pursuant to  
9 Section 13558 and any judicial review of the  
10 administrative determination after the hearing pursuant  
11 to Section 13559 is final.

12 (e) The determination of the facts in subdivision (a)  
13 is a civil matter which is independent of the  
14 determination of the person's guilt or innocence, shall  
15 have no collateral estoppel effect on a subsequent  
16 criminal prosecution, and shall not preclude the litigation  
17 of the same or similar facts in the criminal proceeding. If  
18 a person is acquitted of criminal charges relating to a  
19 determination of facts under subdivision (a), or if the  
20 person's driver's license was suspended pursuant to  
21 Section 13388 and the department finds no basis for a  
22 suspension pursuant to that section, the department shall  
23 immediately reinstate the person's privilege to operate a  
24 motor vehicle if the department has suspended it  
25 administratively pursuant to subdivision (a), and the  
26 department shall return or reissue for the remaining term  
27 any driver's license which has been taken from the person  
28 pursuant to Section 13382 or otherwise. Notwithstanding  
29 subdivision (b) of Section 13558, if criminal charges under  
30 Section 23140, 23152, or 23153 are not filed by the district  
31 attorney because of a lack of evidence, or if those charges  
32 are filed but are subsequently dismissed by the court  
33 because of an insufficiency of evidence, the person has a  
34 renewed right to request an administrative hearing  
35 before the department. The request for a hearing shall be  
36 made within one year from the date of arrest.

37 (f) The department shall furnish a form that requires  
38 a detailed explanation specifying which evidence was  
39 defective or lacking and detailing why that evidence was  
40 defective or lacking. The form shall be made available to



1 the person to provide to the district attorney. The  
2 department shall hold an administrative hearing, and the  
3 hearing officer shall consider the reasons for the failure to  
4 prosecute given by the district attorney on the form  
5 provided by the department. If applicable, the hearing  
6 officer shall consider the reasons stated on the record by  
7 a judge who dismisses the charges. No fee shall be  
8 imposed pursuant to Section 14905 for the return or  
9 reissuing of a driver's license pursuant to this subdivision.  
10 The disposition of a suspension action under this section  
11 does not affect any action to suspend or revoke the  
12 person's privilege to operate a motor vehicle under any  
13 other provision of this code, including, but not limited to,  
14 Section 13352 or 13353, or Chapter 3 (commencing with  
15 Section 13800).

16 SEC. 15. Section 14601.2 of the Vehicle Code, as  
17 amended by Section 10 of Chapter 756 of the Statutes of  
18 1998, is amended to read:

19 14601.2. (a) No person shall drive a motor vehicle at  
20 any time when that person's driving privilege is  
21 suspended or revoked for a conviction of a violation of  
22 Section 23152 or 23153 if the person so driving has  
23 knowledge of the suspension or revocation.

24 (b) Except in full compliance with the restriction, no  
25 person shall drive a motor vehicle at any time when that  
26 person's driving privilege is restricted, if the person so  
27 driving has knowledge of the restriction.

28 (c) Knowledge of suspension or revocation of the  
29 driving privilege shall be conclusively presumed if mailed  
30 notice has been given by the department to the person  
31 pursuant to Section 13106. Knowledge of restriction of the  
32 driving privilege shall be presumed if notice has been  
33 given by the court to the person. The presumption  
34 established by this subdivision is a presumption affecting  
35 the burden of proof.

36 (d) Any person convicted of a violation of this section  
37 shall be punished as follows:

38 (1) Upon a first conviction, by imprisonment in the  
39 county jail for not less than 10 days or more than six  
40 months and by a fine of not less than three hundred



1 dollars (\$300) or more than one thousand dollars (\$1,000),  
2 unless the person has been designated an habitual traffic  
3 offender under subdivision (b) of Section 23546,  
4 subdivision (b) of Section 23550, or subdivision (b) of  
5 Section 23550.5, in which case the person, in addition,  
6 shall be sentenced as provided in paragraph (3) of  
7 subdivision (e) of Section 14601.3.

8 (2) If the offense occurred within five years of a prior  
9 offense that resulted in a conviction of a violation of this  
10 section or Section 14601, 14601.1, or 14601.5, by  
11 imprisonment in the county jail for not less than 30 days  
12 or more than one year and by a fine of not less than five  
13 hundred dollars (\$500) or more than two thousand dollars  
14 (\$2,000), unless the person has been designated an  
15 habitual traffic offender under subdivision (b) of Section  
16 23546 or subdivision (b) of Section 23550, in which case  
17 the person, in addition, shall be sentenced as provided in  
18 paragraph (3) of subdivision (e) of Section 14601.3.

19 (e) If any person is convicted of a first offense under  
20 this section and is granted probation, the court shall  
21 impose as a condition of probation that the person be  
22 confined in the county jail for at least 10 days.

23 (f) If the offense occurred within five years of a prior  
24 offense that resulted in a conviction of a violation of this  
25 section or Section 14601, 14601.1, or 14601.5 and is granted  
26 probation, the court shall impose as a condition of  
27 probation that the person be confined in the county jail  
28 for at least 30 days.

29 (g) If any person is convicted of a second or  
30 subsequent offense that results in a conviction of this  
31 section within seven years, but over five years, of a prior  
32 offense that resulted in a conviction of a violation of this  
33 section or Section 14601, 14601.1, or 14601.5 and is granted  
34 probation, the court shall impose as a condition of  
35 probation that the person be confined in the county jail  
36 for at least 10 days.

37 (h) Pursuant to Section 23575, the court shall require  
38 any person convicted of a violation of this section to install  
39 a certified ignition interlock device on any vehicle the  
40 person owns or operates.



1 (i) Nothing in this section prohibits a person who is  
2 participating in, or has completed, an alcohol or drug  
3 rehabilitation program from driving a motor vehicle that  
4 is owned or utilized by the person's employer, during the  
5 course of employment on private property that is owned  
6 or utilized by the employer, except an offstreet parking  
7 facility as defined in subdivision (c) of Section 12500.

8 SEC. 16. Section 14601.3 of the Vehicle Code is  
9 amended to read:

10 14601.3. (a) It is unlawful for a person whose driving  
11 privilege has been suspended or revoked to accumulate  
12 a driving record history which results from driving during  
13 the period of suspension or revocation. A person who  
14 violates this subdivision is designated an habitual traffic  
15 offender.

16 For purposes of this section, a driving record history  
17 means any of the following, if the driving occurred during  
18 any period of suspension or revocation:

19 (1) Two or more convictions within a 12-month period  
20 of an offense given a violation point count of two pursuant  
21 to Section 12810.

22 (2) Three or more convictions within a 12-month  
23 period of an offense given a violation point count of one  
24 pursuant to Section 12810.

25 (3) Three or more accidents within a 12-month period  
26 that are subject to the reporting requirements of Section  
27 16000.

28 (4) Any combination of convictions or accidents, as  
29 specified in paragraphs (1) to (3), inclusive, which results  
30 during any 12-month period in a violation point count of  
31 three or more pursuant to Section 12810.

32 (b) Knowledge of suspension or revocation of the  
33 driving privilege shall be conclusively presumed if mailed  
34 notice has been given by the department to the person  
35 pursuant to Section 13106. The presumption established  
36 by this subdivision is a presumption affecting the burden  
37 of proof.

38 (c) The department, within 30 days of receipt of a duly  
39 certified abstract of the record of any court or accident  
40 report which results in a person being designated an



1 habitual traffic offender, may execute and transmit by  
2 mail a notice of that designation to the office of the district  
3 attorney having jurisdiction over the location of the  
4 person's last known address as contained in the  
5 department's records.

6 (d) (1) The district attorney, within 30 days of  
7 receiving the notice required in subdivision (c), shall  
8 inform the department of whether or not the person will  
9 be prosecuted for being an habitual traffic offender.

10 (2) Notwithstanding any other provision of this  
11 section, any habitual traffic offender designated under  
12 subdivision (b) of Section 23546, subdivision (b) of  
13 Section 23550, or subdivision (b) of Section 23550.5, who  
14 is convicted of violating Section 14601.2 shall be  
15 sentenced as provided in paragraph (3) of subdivision  
16 (e).

17 (e) Any person convicted under this section of being  
18 an habitual traffic offender shall be punished as follows:

19 (1) Upon a first conviction, by imprisonment in the  
20 county jail for 30 days and by a fine of one thousand dollars  
21 (\$1,000).

22 (2) Upon a second or any subsequent offense within  
23 seven years of a prior conviction under this section, by  
24 imprisonment in the county jail for 180 days and by a fine  
25 of two thousand dollars (\$2,000).

26 (3) Any habitual traffic offender designated under  
27 Section 193.7 of the Penal Code or under subdivision (b)  
28 of Section 23546, subdivision (b) of Section 23550,  
29 subdivision (b) of Section 23550.5, or subdivision (d) of  
30 Section 23566 who is convicted of a violation of Section  
31 14601.2 shall be punished by imprisonment in the county  
32 jail for 180 days and by a fine of two thousand dollars  
33 (\$2,000). The penalty in this paragraph shall be  
34 consecutive to that imposed for the violation of any other  
35 law.

36 SEC. 17. Section 21200.5 of the Vehicle Code is  
37 amended to read:

38 21200.5. Notwithstanding Section 21200, it is unlawful  
39 for any person to ride a bicycle upon a highway while  
40 under the influence of an alcoholic beverage or any drug,



1 or under the combined influence of an alcoholic beverage  
2 and any drug. Any person arrested for a violation of this  
3 section may request to have a chemical test made of the  
4 person's blood, breath, or urine for the purpose of  
5 determining the alcoholic or drug content of that person's  
6 blood pursuant to Section 23612, and, if so requested, the  
7 arresting officer shall have the test performed. A  
8 conviction of a violation of this section shall be punished  
9 by a fine of not more than two hundred fifty dollars  
10 (\$250). Violations of this section are subject to Section  
11 13202.5.

12 SEC. 17.5. Section 22651 of the Vehicle Code, as  
13 amended by Section 11.5 of Chapter 118 of the Statutes of  
14 1998, is amended to read:

15 22651. Any peace officer, as defined in Chapter 4.5  
16 (commencing with Section 830) of Title 3 of Part 2 of the  
17 Penal Code, or any regularly employed and salaried  
18 employee, who is engaged in directing traffic or  
19 enforcing parking laws and regulations, of a city, county,  
20 or jurisdiction of a state agency in which a vehicle is  
21 located, may remove a vehicle located within the  
22 territorial limits in which the officer or employee may act,  
23 under any of the following circumstances:

24 (a) When any vehicle is left unattended upon any  
25 bridge, viaduct, or causeway or in any tube or tunnel  
26 where the vehicle constitutes an obstruction to traffic.

27 (b) When any vehicle is parked or left standing upon  
28 a highway in a position so as to obstruct the normal  
29 movement of traffic or in a condition so as to create a  
30 hazard to other traffic upon the highway.

31 (c) When any vehicle is found upon a highway or any  
32 public lands and a report has previously been made that  
33 the vehicle has been stolen or a complaint has been filed  
34 and a warrant thereon issued charging that the vehicle  
35 has been embezzled.

36 (d) When any vehicle is illegally parked so as to block  
37 the entrance to a private driveway and it is impractical to  
38 move the vehicle from in front of the driveway to another  
39 point on the highway.



1 (e) When any vehicle is illegally parked so as to  
2 prevent access by firefighting equipment to a fire  
3 hydrant and it is impracticable to move the vehicle from  
4 in front of the fire hydrant to another point on the  
5 highway.

6 (f) When any vehicle, except any highway  
7 maintenance or construction equipment, is stopped,  
8 parked, or left standing for more than four hours upon the  
9 right-of-way of any freeway which has full control of  
10 access and no crossings at grade and the driver, if present,  
11 cannot move the vehicle under its own power.

12 (g) When the person or persons in charge of a vehicle  
13 upon a highway or any public lands are, by reason of  
14 physical injuries or illness, incapacitated to an extent so as  
15 to be unable to provide for its custody or removal.

16 (h) (1) When an officer arrests any person driving or  
17 in control of a vehicle for an alleged offense and the  
18 officer is, by this code or other law, required or permitted  
19 to take, and does take, the person into custody.

20 (2) When an officer serves a notice of an order of  
21 suspension or revocation pursuant to Section 13388.

22 (i) (1) When any vehicle, other than a rented vehicle,  
23 is found upon a highway or any public lands, or is removed  
24 pursuant to this code, and it is known that the vehicle has  
25 been issued five or more notices of parking violations to  
26 which the owner or person in control of the vehicle has  
27 not responded within 21 calendar days of notice of  
28 citation issuance or citation issuance or 14 calendar days  
29 of the mailing of a notice of delinquent parking violation  
30 to the agency responsible for processing notices of  
31 parking violation or the registered owner of the vehicle  
32 is known to have been issued five or more notices for  
33 failure to pay or failure to appear in court for traffic  
34 violations for which no certificate has been issued by the  
35 magistrate or clerk of the court hearing the case showing  
36 that the case has been adjudicated or concerning which  
37 the registered owner's record has not been cleared  
38 pursuant to Chapter 6 (commencing with Section 41500)  
39 of Division 17, the vehicle may be impounded until that



1 person furnishes to the impounding law enforcement  
2 agency all of the following:

3 (A) Evidence of his or her identity.

4 (B) An address within this state at which he or she can  
5 be located.

6 (C) Satisfactory evidence that all parking penalties  
7 due for the vehicle and any other vehicle registered to the  
8 registered owner of the impounded vehicle, and all traffic  
9 violations of the registered owner, have been cleared.

10 (2) The requirements in subparagraph (C) of  
11 paragraph (1) shall be fully enforced by the impounding  
12 law enforcement agency on and after the time that the  
13 Department of Motor Vehicles is able to provide access  
14 to the necessary records.

15 (3) A notice of parking violation issued for an  
16 unlawfully parked vehicle shall be accompanied by a  
17 warning that repeated violations may result in the  
18 impounding of the vehicle. In lieu of furnishing  
19 satisfactory evidence that the full amount of parking  
20 penalties or bail has been deposited, that person may  
21 demand to be taken without unnecessary delay before a  
22 magistrate, for traffic offenses, or a hearing examiner, for  
23 parking offenses, within the county in which the offenses  
24 charged are alleged to have been committed and who has  
25 jurisdiction of the offenses and is nearest or most  
26 accessible with reference to the place where the vehicle  
27 is impounded. Evidence of current registration shall be  
28 produced after a vehicle has been impounded, or, at the  
29 discretion of the impounding law enforcement agency, a  
30 notice to appear for violation of subdivision (a) of Section  
31 4000 shall be issued to that person.

32 (4) A vehicle shall be released to the legal owner, as  
33 defined in Section 370, if the legal owner does all of the  
34 following:

35 (A) Pays the cost of towing and storing the vehicle.

36 (B) Submits evidence of payment of fees as provided  
37 in Section 9561.

38 (C) Completes an affidavit in a form acceptable to the  
39 impounding law enforcement agency stating that the  
40 vehicle was not in possession of the legal owner at the



1 time of occurrence of the offenses relating to standing or  
2 parking. A vehicle released to a legal owner under this  
3 subdivision is a repossessed vehicle for purposes of  
4 disposition or sale. The impounding agency shall have a  
5 lien on any surplus that remains upon sale of the vehicle  
6 to which the registered owner is or may be entitled, as  
7 security for the full amount of the parking penalties for  
8 all notices of parking violations issued for the vehicle and  
9 for any local administrative charges imposed pursuant to  
10 Section 22850.5. The legal owner shall promptly remit to,  
11 and deposit with, the agency responsible for processing  
12 notices of parking violations from that surplus, on receipt  
13 thereof, full amount of the parking penalties for all  
14 notices of parking violations issued for the vehicle and for  
15 any local administrative charges imposed pursuant to  
16 Section 22850.5.

17 (5) The impounding agency that has a lien on the  
18 surplus that remains upon the sale of a vehicle to which  
19 a registered owner is entitled pursuant to paragraph (4)  
20 has a deficiency claim against the registered owner for  
21 the full amount of the parking penalties for all notices of  
22 parking violations issued for the vehicle and for any local  
23 administrative charges imposed pursuant to Section  
24 22850.5, less the amount received from the sale of the  
25 vehicle.

26 (j) When any vehicle is found illegally parked and  
27 there are no license plates or other evidence of  
28 registration displayed, the vehicle may be impounded  
29 until the owner or person in control of the vehicle  
30 furnishes the impounding law enforcement agency  
31 evidence of his or her identity and an address within this  
32 state at which he or she can be located.

33 (k) When any vehicle is parked or left standing upon  
34 a highway for 72 or more consecutive hours in violation  
35 of a local ordinance authorizing removal.

36 (l) When any vehicle is illegally parked on a highway  
37 in violation of any local ordinance forbidding standing or  
38 parking and the use of a highway, or a portion thereof, is  
39 necessary for the cleaning, repair, or construction of the  
40 highway, or for the installation of underground utilities,



1 and signs giving notice that the vehicle may be removed  
2 are erected or placed at least 24 hours prior to the  
3 removal by local authorities pursuant to the ordinance.

4 (m) Wherever the use of the highway, or any portion  
5 thereof, is authorized by local authorities for a purpose  
6 other than the normal flow of traffic or for the movement  
7 of equipment, articles, or structures of unusual size, and  
8 the parking of any vehicle would prohibit or interfere  
9 with that use or movement, and signs giving notice that  
10 the vehicle may be removed are erected or placed at least  
11 24 hours prior to the removal by local authorities pursuant  
12 to the ordinance.

13 (n) Whenever any vehicle is parked or left standing  
14 where local authorities, by resolution or ordinance, have  
15 prohibited parking and have authorized the removal of  
16 vehicles. No vehicle may be removed unless signs are  
17 posted giving notice of the removal.

18 (o) (1) When any vehicle is found or operated upon  
19 a highway, any public lands, or an offstreet parking  
20 facility with a registration expiration date in excess of six  
21 months before the date it is found or operated on the  
22 highway, public lands, or the offstreet parking facility.  
23 However, whenever the vehicle is occupied, only a peace  
24 officer, as defined in Chapter 4.5 (commencing with  
25 Section 830) of Title 3 of Part 2 of the Penal Code, may  
26 remove the vehicle. For the purposes of this subdivision,  
27 the vehicle shall be released to the owner or person in  
28 control of the vehicle only after the owner or person  
29 furnishes the storing law enforcement agency with proof  
30 of current registration and a currently valid driver's  
31 license to operate the vehicle.

32 (2) As used in this subdivision, "offstreet parking  
33 facility" means any offstreet facility held open for use by  
34 the public for parking vehicles and includes any publicly  
35 owned facilities for offstreet parking, and privately  
36 owned facilities for offstreet parking where no fee is  
37 charged for the privilege to park and which are held open  
38 for the common public use of retail customers.

39 (p) When the peace officer issues the driver of a  
40 vehicle a notice to appear for a violation of Section 12500,



1 14601, 14601.1, 14601.2, 14601.3, 14601.4, 14601.5, or 14604  
2 and the vehicle has not been impounded pursuant to  
3 Section 22655.5. Any vehicle so removed from the  
4 highway or any public lands, or from private property  
5 after having been on a highway or public lands, shall not  
6 be released to the registered owner or his or her agent,  
7 except upon presentation of the registered owner's or his  
8 or her agent's currently valid driver's license to operate  
9 the vehicle and proof of current vehicle registration, or  
10 upon order of a court.

11 (q) Whenever any vehicle is parked for more than 24  
12 hours on a portion of highway which is located within the  
13 boundaries of a common interest development, as  
14 defined in subdivision (c) of Section 1351 of the Civil  
15 Code, and signs, as required by Section 22658.2, have been  
16 posted on that portion of highway providing notice to  
17 drivers that vehicles parked thereon for more than 24  
18 hours will be removed at the owner's expense, pursuant  
19 to a resolution or ordinance adopted by the local  
20 authority.

21 (r) When any vehicle is illegally parked and blocks the  
22 movement of a legally parked vehicle.

23 (s) (1) When any vehicle, except highway  
24 maintenance or construction equipment, an authorized  
25 emergency vehicle, or a vehicle which is properly  
26 permitted or otherwise authorized by the Department of  
27 Transportation, is stopped, parked, or left standing for  
28 more than eight hours within a roadside rest area or  
29 viewpoint.

30 (2) For purposes of this subdivision, a roadside rest  
31 area or viewpoint is a publicly maintained vehicle  
32 parking area, adjacent to a highway, utilized for the  
33 convenient, safe stopping of a vehicle to enable motorists  
34 to rest or to view the scenery. If two or more roadside rest  
35 areas are located on opposite sides of the highway, or  
36 upon the center divider, within seven miles of each other,  
37 then that combination of rest areas is considered to be the  
38 same rest area.

39 (t) When a peace officer issues a notice to appear for  
40 a violation of Section 25279.



1 SEC. 18. Section 23198 of the Vehicle Code is  
2 repealed.

3 SEC. 18.1. Section 23198 is added to the Vehicle Code,  
4 to read:

5 23198. (a) (1) Upon its own motion or upon motion  
6 of the prosecutor in a criminal action for a violation of any  
7 of the following offenses, the court with jurisdiction over  
8 the offense, notwithstanding Section 86 of the Code of  
9 Civil Procedure and any other provision of law otherwise  
10 prescribing the jurisdiction of the court based upon the  
11 value of the property involved, may declare the motor  
12 vehicle driven by the defendant to be a nuisance if the  
13 defendant is the registered owner of the vehicle:

14 (A) A violation of Section 191.5 of, or paragraph (3) of  
15 subdivision (c) of Section 192 of, the Penal Code.

16 (B) A violation of Section 23152 which occurred within  
17 seven years of two or more separate offenses of Section  
18 191.5 of, or paragraph (3) of subdivision (c) of Section 192  
19 of, the Penal Code, or Section 23152 or 23153, or any  
20 combination thereof, which resulted in convictions.

21 (C) A violation of Section 23153 which occurred within  
22 seven years of one or more separate offenses of Section  
23 191.5 of, or paragraph (3) of subdivision (c) of Section 192  
24 of, the Penal Code, or Section 23152 or 23153, which  
25 resulted in convictions.

26 (2) The court or the prosecutor shall give notice of the  
27 motion to the defendant, and the court shall hold a  
28 hearing before a motor vehicle may be declared a  
29 nuisance under this section.

30 (b) Except as provided in subdivision (g), upon the  
31 conviction of the defendant and at the time of  
32 pronouncement of sentence, the court with jurisdiction  
33 over the offense shall order any vehicle declared to be a  
34 nuisance pursuant to subdivision (a) to be sold. Any  
35 vehicle ordered to be sold pursuant to this subdivision  
36 shall be surrendered to the sheriff of the county or the  
37 chief of police of the city in which the violation occurred.  
38 The officer to whom the vehicle is surrendered shall  
39 promptly ascertain from the department the names and  
40 addresses of all legal and registered owners of the vehicle



1 and, within five days of receiving that information, shall  
2 send by certified mail a notice to all legal and registered  
3 owners of the vehicle other than the defendant, at the  
4 addresses obtained from the department, informing  
5 them that the vehicle has been declared a nuisance and  
6 will be sold or otherwise disposed of pursuant to this  
7 section and of the approximate date and location of the  
8 sale or other disposition. The notice shall also inform any  
9 legal owner of its right to conduct the sale pursuant to  
10 subdivision (c).

11 (c) Any legal owner who is a motor vehicle dealer,  
12 bank, credit union, acceptance corporation, or other  
13 licensed finance institution legally operating in this state,  
14 or the agent of that legal owner, may take possession and  
15 conduct the sale of the vehicle declared to be a nuisance  
16 if it notifies the officer to whom the vehicle is surrendered  
17 of its intent to conduct the sale within 15 days of the  
18 mailing of the notice pursuant to subdivision (b). Sale of  
19 the vehicle pursuant to this subdivision may be  
20 conducted at the time, in the manner, and on the notice  
21 usually given for the sale of repossessed or surrendered  
22 vehicles. The proceeds of any sale conducted by the legal  
23 owner shall be disposed of as provided in subdivision (e).  
24 A notice pursuant to this subdivision may be presented in  
25 person, by certified mail, by facsimile transmission, or by  
26 electronic mail. The agent of a legal owner acting  
27 pursuant to this subdivision shall be licensed, or exempt  
28 from licensure, pursuant to Chapter 11 (commencing  
29 with Section 7500) of Division 3 of the Business and  
30 Professions Code.

31 (d) If the legal owner or the agent of the legal owner  
32 does not notify the officer to whom the vehicle is  
33 surrendered of its intent to conduct the sale as provided  
34 in subdivision (c), the officer shall offer the vehicle for  
35 sale at public auction within 60 days of receiving the  
36 vehicle. At least 10 days but not more than 20 days prior  
37 to the sale, not counting the day of the sale, the officer  
38 shall give notice of the sale by advertising once in a  
39 newspaper of general circulation published in the city or  
40 county, as the case may be, in which the vehicle is located,



1 which notice shall contain a description of the make, year,  
2 model, identification number, and license number of the  
3 vehicle and the date, time, and location of the sale. For  
4 motorcycles, the engine number shall also be included. If  
5 there is no newspaper of general circulation published in  
6 the county, notice shall be given by posting a notice of sale  
7 containing the information required by this subdivision in  
8 three of the most public places in the city or county in  
9 which the vehicle is located, and at the place where the  
10 vehicle is to be sold, for 10 consecutive days prior to and  
11 including the day of the sale.

12 (e) The proceeds of a sale conducted pursuant to this  
13 section shall be disposed of in the following priority:

14 (1) To satisfy the costs of the sale, including costs  
15 incurred with respect to the taking and keeping of the  
16 vehicle pending sale.

17 (2) To the legal owner in an amount to satisfy the  
18 indebtedness owed to the legal owner remaining as of the  
19 date of the sale, including accrued interest or finance  
20 charges and delinquency charges.

21 (3) To the holder of any subordinate lien or  
22 encumbrance on the vehicle to satisfy any indebtedness  
23 so secured if written notification of demand is received  
24 before distribution of the proceeds is completed. The  
25 holder of a subordinate lien or encumbrance, if  
26 requested, shall reasonably furnish reasonable proof of its  
27 interest and, unless it does so on request, is not entitled to  
28 distribution pursuant to this paragraph.

29 (4) To any other person who can establish an interest  
30 in the vehicle, including a community property interest,  
31 to the extent of his or her provable interest.

32 (5) If the vehicle was forfeited as a result of a felony  
33 violation of Section 191.5 of the Penal Code, or of Section  
34 23153 that resulted in serious bodily injury to any person  
35 other than the defendant, the balance, if any, to the city  
36 or county in which the violation occurred, to be deposited  
37 in its general fund.

38 (6) Except as provided in paragraph (5), the balance,  
39 if any, to the city or county in which the violation



1 occurred, to be expended for community-based  
2 adolescent substance abuse treatment services.

3 The person conducting the sale shall disburse the  
4 proceeds of the sale as provided in this subdivision, and  
5 provide a written accounting regarding the disposition to  
6 all persons entitled to or claiming a share of the proceeds,  
7 within 15 days after the sale is conducted.

8 (f) If the vehicle to be sold under this section is not of  
9 the type that can readily be sold to the public generally,  
10 the vehicle shall be destroyed or donated to an  
11 eleemosynary institution.

12 (g) No vehicle shall be sold pursuant to this section in  
13 either of the following circumstances:

14 (1) The vehicle is stolen, unless the identity of the legal  
15 and registered owners of the vehicle cannot be  
16 reasonably ascertained.

17 (2) The vehicle is owned by another, or there is a  
18 community property interest in the vehicle owned by a  
19 person other than the defendant and the vehicle is the  
20 only vehicle available to the defendant's immediate  
21 family that may be operated on the highway with a class  
22 3 or class 4 driver's license.

23 (h) The Legislature finds and declares it to be the  
24 public policy of this state that no policy of insurance shall  
25 afford benefits that would alleviate the financial  
26 detriment suffered by any person as a direct or indirect  
27 result of a confiscation of a vehicle pursuant to this  
28 section.

29 (i) This section shall remain in effect only until July 1,  
30 1999, and as of that date is repealed.

31 SEC. 18.4. Section 23157 of the Vehicle Code is  
32 amended and renumbered to read:

33 23612. (a) (1) (A) Any person who drives a motor  
34 vehicle is deemed to have given his or her consent to  
35 chemical testing of his or her blood or breath for the  
36 purpose of determining the alcoholic content of his or her  
37 blood, if lawfully arrested for any offense allegedly  
38 committed in violation of Section 23140, 23152, or 23153.  
39 If a blood or breath test, or both, are unavailable, then  
40 paragraph (2) of subdivision (d) applies.



1 (B) Any person who drives a motor vehicle is deemed  
2 to have given his or her consent to chemical testing of his  
3 or her blood or urine for the purpose of determining the  
4 drug content of his or her blood, if lawfully arrested for  
5 any offense allegedly committed in violation of Section  
6 23140, 23152, or 23153.

7 (C) The testing shall be incidental to a lawful arrest  
8 and administered at the direction of a peace officer  
9 having reasonable cause to believe the person was driving  
10 a motor vehicle in violation of Section 23140, 23152, or  
11 23153.

12 (D) The person shall be told that his or her failure to  
13 submit to, or the failure to complete, the required  
14 chemical testing will result in a fine, mandatory  
15 imprisonment if the person is convicted of a violation of  
16 Section 23152 or 23153, and (i) the suspension of the  
17 person's privilege to operate a motor vehicle for a period  
18 of one year, (ii) the revocation of the person's privilege  
19 to operate a motor vehicle for a period of two years if the  
20 refusal occurs within seven years of a separate violation  
21 of Section 23103 as specified in Section 23103.5, or of  
22 Section 23140, 23152, or 23153, or of Section 191.5 or  
23 paragraph (3) of subdivision (c) of Section 192 of the  
24 Penal Code which resulted in a conviction, or if the  
25 person's privilege to operate a motor vehicle has been  
26 suspended or revoked pursuant to Section 13353, 13353.1,  
27 or 13353.2 for an offense which occurred on a separate  
28 occasion, or (iii) the revocation of the person's privilege  
29 to operate a motor vehicle for a period of three years if  
30 the refusal occurs within seven years of two or more  
31 separate violations of Section 23103 as specified in Section  
32 23103.5, or of Section 23140, 23152, or 23153, or of Section  
33 191.5 or paragraph (3) of subdivision (c) of Section 192 of  
34 the Penal Code, or any combination thereof, which  
35 resulted in convictions, or if the person's privilege to  
36 operate a motor vehicle has been suspended or revoked  
37 two or more times pursuant to Section 13353, 13353.1, or  
38 13353.2 for offenses which occurred on separate  
39 occasions, or if there is any combination of those  
40 convictions or administrative suspensions or revocations.



1 (2) (A) If the person is lawfully arrested for driving  
2 under the influence of an alcoholic beverage, the person  
3 has the choice of whether the test shall be of his or her  
4 blood or breath and the officer shall advise the person that  
5 he or she has that choice. If the person arrested either is  
6 incapable, or states that he or she is incapable, of  
7 completing the chosen test, the person shall submit to the  
8 remaining test. If a blood or breath test, or both, are  
9 unavailable, then paragraph (2) of subdivision (d)  
10 applies.

11 (B) If the person is lawfully arrested for driving under  
12 the influence of any drug or the combined influence of an  
13 alcoholic beverage and any drug, the person has the  
14 choice of whether the test shall be of his or her blood,  
15 breath, or urine, and the officer shall advise the person  
16 that he or she has that choice.

17 (C) A person who chooses to submit to a breath test  
18 may also be requested to submit to a blood or urine test  
19 if the officer has reasonable cause to believe that the  
20 person was driving under the influence of any drug or the  
21 combined influence of an alcoholic beverage and any  
22 drug and if the officer has a clear indication that a blood  
23 or urine test will reveal evidence of the person being  
24 under the influence. The officer shall state in his or her  
25 report the facts upon which that belief and that clear  
26 indication are based. The person has the choice of  
27 submitting to and completing a blood or urine test, and  
28 the officer shall advise the person that he or she is  
29 required to submit to an additional test and that he or she  
30 may choose a test of either blood or urine. If the person  
31 arrested either is incapable, or states that he or she is  
32 incapable, of completing either chosen test, the person  
33 shall submit to and complete the other remaining test.

34 (3) If the person is lawfully arrested for an offense  
35 allegedly committed in violation of Section 23140, 23152,  
36 or 23153, and, because of the need for medical treatment,  
37 the person is first transported to a medical facility where  
38 it is not feasible to administer a particular test of, or to  
39 obtain a particular sample of, the person's blood, breath,  
40 or urine, the person has the choice of those tests which are



1 available at the facility to which that person has been  
2 transported. In that case, the officer shall advise the  
3 person of those tests which are available at the medical  
4 facility and that the person's choice is limited to those  
5 tests which are available.

6 (4) The officer shall also advise the person that he or  
7 she does not have the right to have an attorney present  
8 before stating whether he or she will submit to a test or  
9 tests, before deciding which test or tests to take, or during  
10 administration of the test or tests chosen, and that, in the  
11 event of refusal to submit to a test or tests, the refusal may  
12 be used against him or her in a court of law.

13 (5) Any person who is unconscious or otherwise in a  
14 condition rendering him or her incapable of refusal is  
15 deemed not to have withdrawn his or her consent and a  
16 test or tests may be administered whether or not the  
17 person is told that his or her failure to submit to, or the  
18 noncompletion of, the test or tests will result in the  
19 suspension or revocation of his or her privilege to operate  
20 a motor vehicle. Any person who is dead is deemed not  
21 to have withdrawn his or her consent and a test or tests  
22 may be administered at the direction of a peace officer.

23 (b) Any person who is afflicted with hemophilia is  
24 exempt from the blood test required by this section.

25 (c) Any person who is afflicted with a heart condition  
26 and is using an anticoagulant under the direction of a  
27 licensed physician and surgeon is exempt from the blood  
28 test required by this section.

29 (d) (1) A person lawfully arrested for any offense  
30 allegedly committed while the person was driving a  
31 motor vehicle in violation of Section 23140, 23152, or 23153  
32 may request the arresting officer to have a chemical test  
33 made of the arrested person's blood or breath for the  
34 purpose of determining the alcoholic content of that  
35 person's blood, and, if so requested, the arresting officer  
36 shall have the test performed.

37 (2) If a blood or breath test is not available under  
38 subparagraph (A) of paragraph (1) of subdivision (a), or  
39 under subparagraph (A) of paragraph (2) of subdivision  
40 (a), or under paragraph (1) of this subdivision, the person



1 shall submit to the remaining test in order to determine  
2 the percent, by weight, of alcohol in the person's blood.  
3 If both the blood and breath tests are unavailable, the  
4 person shall be deemed to have given his or her consent  
5 to chemical testing of his or her urine and shall submit to  
6 a urine test.

7 (e) If the person, who has been arrested for a violation  
8 of Section 23140, 23152, or 23153, refuses or fails to  
9 complete a chemical test or tests, or requests that a blood  
10 or urine test be taken, the peace officer, acting on behalf  
11 of the department, shall serve the notice of the order of  
12 suspension or revocation of the person's privilege to  
13 operate a motor vehicle personally on the arrested  
14 person. The notice shall be on a form provided by the  
15 department.

16 (f) If the peace officer serves the notice of the order  
17 of suspension or revocation of the person's privilege to  
18 operate a motor vehicle, the peace officer shall take  
19 possession of any driver's license issued by this state which  
20 is held by the person. The temporary driver's license shall  
21 be an endorsement on the notice of the order of  
22 suspension and shall be valid for 30 days from the date of  
23 arrest.

24 (g) The peace officer shall immediately forward a  
25 copy of the completed notice of suspension or revocation  
26 form and any driver's license taken into possession under  
27 subdivision (f), with the report required by Section  
28 23158.2, to the department. If the person submitted to a  
29 blood or urine test, the peace officer shall forward the  
30 results immediately to the appropriate forensic  
31 laboratory. The forensic laboratory shall forward the  
32 results of the chemical tests to the department within 15  
33 calendar days of the date of the arrest.

34 (h) A preliminary alcohol screening test that indicates  
35 the presence or concentration of alcohol based on a  
36 breath sample in order to establish reasonable cause to  
37 believe the person was driving a vehicle in violation of  
38 Section 23140, 23152, or 23153 is a field sobriety test and  
39 may be used by an officer as a further investigative tool.



1 (i) If the officer decides to use a preliminary alcohol  
2 screening test, the officer shall advise the person that he  
3 or she is requesting that person to take a preliminary  
4 alcohol screening test to assist the officer in determining  
5 if that person is under the influence of alcohol or drugs,  
6 or a combination of alcohol and drugs. The person's  
7 obligation to submit to a blood, breath, or urine test, as  
8 required by this section, for the purpose of determining  
9 the alcohol or drug content of that person's blood, is not  
10 satisfied by the person submitting to a preliminary  
11 alcohol screening test. The officer shall advise the person  
12 of that fact and of the person's right to refuse to take the  
13 preliminary alcohol screening test.

14 SEC. 19. Section 23160 of the Vehicle Code, as  
15 amended by Section 11 of Chapter 756 of the Statutes of  
16 1998, is amended and renumbered to read:

17 23536. (a) If any person is convicted of a first  
18 violation of Section 23152, that person shall be punished  
19 by imprisonment in the county jail for not less than 96  
20 hours, at least 48 hours of which shall be continuous, nor  
21 more than six months and by a fine of not less than three  
22 hundred ninety dollars (\$390), nor more than one  
23 thousand dollars (\$1,000).

24 (b) The court shall order that any person punished  
25 under subdivision (a), who is to be punished by  
26 imprisonment in the county jail, be imprisoned on days  
27 other than days of regular employment of the person, as  
28 determined by the court. If the court determines that 48  
29 hours of continuous imprisonment would interfere with  
30 the person's work schedule, the court shall allow the  
31 person to serve the imprisonment whenever the person  
32 is normally scheduled for time off from work. The court  
33 may make this determination based upon a  
34 representation from the defendant's attorney or upon an  
35 affidavit or testimony from the defendant.

36 (c) Except as provided in paragraph (2) of subdivision  
37 (a) of Section 23538, the person's privilege to operate a  
38 motor vehicle shall be suspended by the Department of  
39 Motor Vehicles pursuant to paragraph (1) of subdivision  
40 (a) of Section 13352.



1 SEC. 20. Section 23161 of the Vehicle Code, as  
2 amended by Section 12 of Chapter 756 of the Statutes of  
3 1998, is amended and renumbered to read:

4 23538. (a) Except as provided in subdivision (d), if  
5 the court grants probation to any person punished under  
6 Section 23536, in addition to the provisions of Section  
7 23600 and any other terms and conditions imposed by the  
8 court, the court shall impose as a condition of probation  
9 that the person be subject to one of the following:

10 (1) Be confined in the county jail for at least 48 hours  
11 but not more than six months, and pay a fine of at least  
12 three hundred ninety dollars (\$390), but not more than  
13 one thousand dollars (\$1,000). Except as provided in  
14 paragraph (2), the person's privilege to operate a motor  
15 vehicle shall be suspended by the Department of Motor  
16 Vehicles pursuant to paragraph (1) of subdivision (a) of  
17 Section 13352.

18 (2) Pay a fine of at least three hundred ninety dollars  
19 (\$390) but not more than one thousand dollars (\$1,000),  
20 and, if the person gives proof of financial responsibility,  
21 as defined in Section 16430, to the Department of Motor  
22 Vehicles, have the privilege to operate a motor vehicle  
23 restricted for 90 days to necessary travel to and from that  
24 person's place of employment and to and from  
25 participation in a program described in subdivision (b).  
26 If driving a motor vehicle is necessary to perform the  
27 duties of the person's employment, the restriction also  
28 shall allow the person to drive to locations within the  
29 person's scope of employment. Whenever the driving  
30 privilege is restricted pursuant to this paragraph, the  
31 person shall maintain proof of financial responsibility for  
32 three years.

33 (3) If the court elects to order a 90-day restriction as  
34 provided for in paragraph (2), the court shall order and  
35 advise the person of the following matters:

36 (A) If the person's privilege to operate a motor vehicle  
37 is suspended under Section 13353.2, the court-ordered  
38 restriction does not allow the person to operate a motor  
39 vehicle unless the suspension under Section 13353.2 has  
40 either been served to completion or set aside, and his or



1 her license has been reinstated. The restriction of the  
2 driver's license described in paragraph (2) shall  
3 commence upon the reinstatement of the privilege to  
4 operate a motor vehicle.

5 (B) If a suspension was not imposed pursuant to  
6 Section 13353.2, the person shall be advised by the court  
7 that the person's driving privilege may be suspended by  
8 the department pursuant to subdivision (c) of Section  
9 13352.4 until proof of financial responsibility is provided.

10 (b) In any county where the board of supervisors has  
11 approved, and the State Department of Alcohol and Drug  
12 Programs has licensed, a program or programs described  
13 in Section 11837.3 of the Health and Safety Code, the  
14 court shall also impose as a condition of probation that the  
15 driver shall enroll and participate in, and successfully  
16 complete an alcohol and other drug education and  
17 counseling program, licensed pursuant to Section 11836  
18 of the Health and Safety Code, in the driver's county of  
19 residence or employment, as designated by the court.

20 (1) The court shall refer a first offender whose  
21 blood-alcohol concentration was less than 0.20 percent, by  
22 weight, to participate for at least three months or longer,  
23 as ordered by the court, in a licensed program that  
24 consists of at least 30 hours of program activities,  
25 including those education, group counseling, and  
26 individual interview sessions described in Chapter 9  
27 (commencing with Section 11836) of Part 2 of Division  
28 10.5 of the Health and Safety Code.

29 (2) The court shall refer a first offender whose  
30 blood-alcohol concentration was 0.20 percent or more, by  
31 weight, or who refused to take a chemical test, to  
32 participate for at least six months or longer, as ordered by  
33 the court, in a licensed program that consists of at least 45  
34 hours of program activities, including those education,  
35 group counseling, and individual interview sessions  
36 described in Chapter 9 (commencing with Section 11836)  
37 of Part 2 of Division 10.5 of the Health and Safety Code.

38 (c) (1) The court shall revoke the person's probation  
39 pursuant to Section 23602, except for good cause shown,



1 for the failure to enroll in, participate in, or complete a  
2 program specified in subdivision (b).

3 (2) The court, in establishing reporting requirements,  
4 shall consult with the county alcohol program  
5 administrator. The county alcohol program administrator  
6 shall coordinate the reporting requirements with the  
7 department and with the State Department of Alcohol  
8 and Drug Programs. That reporting shall ensure that all  
9 persons who, after being ordered to attend and complete  
10 a program, may be identified for either (A) failure to  
11 enroll in, or failure to successfully complete, the program,  
12 or (B) successful completion of the program as ordered.

13 (d) Notwithstanding subdivision (a), if the offense  
14 occurred in a vehicle requiring a driver with a class A or  
15 class B driver's license or with an endorsement specified  
16 in Section 15278, the court shall upon conviction order the  
17 department to suspend the driver's privilege pursuant to  
18 paragraph (1) of subdivision (a) of Section 13352.

19 SEC. 21. Section 23166 of the Vehicle Code, as  
20 amended by Section 13.5 of Chapter 756 of the Statutes of  
21 1998, is amended and renumbered to read:

22 23542. If the court grants probation to any person  
23 punished under Section 23540, in addition to the  
24 provisions of Section 23600 and any other terms and  
25 conditions imposed by the court, the court shall impose  
26 as conditions of probation that the person be subject to  
27 either subdivision (a) or (b), as follows:

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

35 (b) All of the following:

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



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

3 (3) Have the privilege to operate a motor vehicle be  
4 restricted by the Department of Motor Vehicles pursuant  
5 to Section 13352.5. Until all conditions prescribed in this  
6 section are met, the person’s driving privilege is  
7 suspended pursuant to paragraph (3) of subdivision (a)  
8 of Section 13352. This paragraph does not apply if the  
9 offense occurred in a vehicle requiring a driver with a  
10 class A or class B driver’s license or with an endorsement  
11 prescribed in Section 15278.

12 (4) Either of the following:

13 (A) Enroll and participate, for at least 18 months  
14 subsequent to the date of the underlying violation and in  
15 a manner satisfactory to the court, in a program licensed  
16 pursuant to Section 11836 of the Health and Safety Code,  
17 as designated by the court. The person shall complete the  
18 entire program subsequent to, and shall not be given any  
19 credit for any program activities completed prior to, the  
20 date of the current violation. The program shall provide  
21 for persons who cannot afford the program fee pursuant  
22 to paragraph (2) of subdivision (b) of Section 11837.4 of  
23 the Health and Safety Code in order to enable those  
24 persons to participate.

25 (B) Enroll and participate, for at least 30 months  
26 subsequent to the date of the underlying violation and in  
27 a manner satisfactory to the court, in a program licensed  
28 pursuant to Section 11836 of the Health and Safety Code.  
29 The person shall complete the entire program  
30 subsequent to, and shall not be given any credit for any  
31 program activities completed prior to, the date of the  
32 current violation.

33 SEC. 22. Section 23186 of the Vehicle Code, as  
34 amended by Section 15 of Chapter 756 of the Statutes of  
35 1998, is amended and renumbered to read:

36 23562 If the court grants probation to any person  
37 punished under Section 23560, in addition to the  
38 provisions of Section 23600 and any other terms and  
39 conditions imposed by the court, the court shall impose



1 as conditions of probation that the person be subject to  
2 either subdivision (a) or (b), as follows:

3 (a) Be confined in the county jail for at least 120 days  
4 and pay a fine of at least three hundred ninety dollars  
5 (\$390), but not more than five thousand dollars (\$5,000).  
6 The person's privilege to operate a motor vehicle shall be  
7 revoked by the Department of Motor Vehicles pursuant  
8 to paragraph (4) of subdivision (a) of Section 13352.

9 (b) All of the following:

10 (1) Be confined in the county jail for at least 30 days,  
11 but not more than one year.

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

14 (3) Have the privilege to operate a motor vehicle  
15 revoked by the Department of Motor Vehicles under  
16 paragraph (4) of subdivision (a) of Section 13352.

17 (4) Either of the following:

18 (A) Enroll and participate, for at least 18 months  
19 subsequent to the date of the underlying violation and in  
20 a manner satisfactory to the court, in a program licensed  
21 pursuant to Section 11836 of the Health and Safety Code,  
22 if available in the county of the person's residence or  
23 employment, as designated by the court. The person shall  
24 complete the entire program subsequent to, and shall not  
25 be given any credit for program activities completed  
26 prior to, the date of the current violation. The program  
27 shall provide for persons who cannot afford the program  
28 fee pursuant to paragraph (2) of subdivision (b) of  
29 Section 11837.4 of the Health and Safety Code in order to  
30 enable those persons to participate.

31 (B) Enroll and participate, for at least 30 months  
32 subsequent to the date of the underlying violation and in  
33 a manner satisfactory to the court, in a program licensed  
34 pursuant to Section 11836 of the Health and Safety Code,  
35 if available in the county of the person's residence or  
36 employment. The person shall complete the entire  
37 program subsequent to, and shall not be given any credit  
38 for program activities completed prior to, the date of the  
39 current violation.



1 SEC. 23. Section 23203 of the Vehicle Code, as  
2 amended by Section 17 of Chapter 756 of the Statutes of  
3 1998, is amended and renumbered to read:

4 23662. If a person is placed on probation, the court  
5 shall promptly notify the Department of Motor Vehicles  
6 of the probation and probationary term and conditions in  
7 a manner prescribed by the department. The  
8 department shall place the fact of probation and the  
9 probationary term and conditions on the person's records  
10 in the department.

11 SEC. 24. Section 23204 of the Vehicle Code, as  
12 amended by Section 19 of Chapter 756 of the Statutes of  
13 1998, is amended and renumbered to read:

14 23660. If a person's privilege to operate a motor  
15 vehicle is required or ordered to be suspended or revoked  
16 by the Department of Motor Vehicles pursuant to other  
17 provisions of this code upon the conviction of an offense  
18 described in Article 2 (commencing with Section 23152)  
19 of Chapter 12 of Division 11, that person shall surrender  
20 each and every operator's license of that person to the  
21 court upon conviction. The court shall transmit the  
22 license or licenses required to be suspended or revoked  
23 to the Department of Motor Vehicles pursuant to Section  
24 13550, and the court shall notify the department.

25 This section does not apply to an administrative  
26 proceeding by the Department of Motor Vehicles to  
27 suspend or revoke the driving privilege of any person  
28 pursuant to other provisions of law.

29 SEC. 25. Section 23235 of the Vehicle Code, as  
30 amended by Section 19 of Chapter 756 of the Statutes of  
31 1998, is amended and renumbered to read:

32 13386. (a) The Department of Motor Vehicles shall  
33 certify or cause to be certified ignition interlock devices  
34 required by Article 5 (commencing with Section 23575)  
35 of Chapter 2 of Division 11.5 and publish a list of approved  
36 devices.

37 (b) The department shall utilize information from an  
38 independent laboratory to certify ignition interlock  
39 devices on or off the premises of the manufacturer or  
40 manufacturer's agent, in accordance with the guidelines.



1 The cost of certification shall be borne by the  
2 manufacturers of ignition interlock devices. If the  
3 certification of a device is suspended or revoked, the  
4 manufacturer of the device shall be responsible for, and  
5 shall bear the cost of, the removal of the device and the  
6 replacement of a certified device of the manufacturer or  
7 another manufacturer.

8 (c) No model of ignition interlock device shall be  
9 certified unless it meets the accuracy requirements and  
10 specifications provided in the guidelines adopted by the  
11 National Highway Traffic Safety Administration.

12 (d) All manufacturers of ignition interlock devices  
13 that meet the requirements of subdivision (c) and are  
14 certified in a manner approved by the Department of  
15 Motor Vehicles, who intend to market the devices in this  
16 state, first shall apply to the Department of Motor  
17 Vehicles on forms provided by that department. The  
18 application shall be accompanied by a fee in an amount  
19 not to exceed the amount necessary to cover the costs  
20 incurred by the department in carrying out this section.

21 (e) The department shall ensure that standard forms  
22 and procedures are developed for documenting decisions  
23 and compliance and communicating results to relevant  
24 agencies. These forms shall include all of the following:

25 (1) An “Option to Install,” to be sent by the  
26 Department of Motor Vehicles to repeat offenders along  
27 with the mandatory order of suspension or revocation.  
28 This shall include the alternatives available for early  
29 license reinstatement with the installation of an ignition  
30 interlock device and shall be accompanied by a toll-free  
31 telephone number for each manufacturer of a certified  
32 ignition interlock device. Information regarding  
33 approved installation locations shall be provided to  
34 drivers by manufacturers with ignition interlock devices  
35 that have been certified in accordance with this section.

36 (2) A “Verification of Installation” to be returned to  
37 the department by the reinstating offender upon  
38 application for reinstatement. Copies shall be provided  
39 for the manufacturer or the manufacturer’s agent.



1 (3) A “Notice of Noncompliance” and procedures to  
2 ensure continued use of the ignition interlock device  
3 during the restriction period and to ensure compliance  
4 with maintenance requirements. The maintenance  
5 period shall be standardized at 60 days to maximize  
6 monitoring checks for equipment tampering.

7 (f) Every manufacturer and manufacturer’s agent  
8 certified by the department to provide ignition interlock  
9 devices shall adopt fee schedules that provide for the  
10 payment of the costs of the device by applicants in  
11 amounts commensurate with the applicant’s ability to  
12 pay.

13 SEC. 26. The heading of Article 4.5 (commencing  
14 with Section 23246) of Chapter 12 of Division 11 of the  
15 Vehicle Code is repealed.

16 SEC. 27. Section 23246 of the Vehicle Code, as  
17 amended by Section 21 of Chapter 756 of the Statutes of  
18 1998, is amended and renumbered to read:

19 23575. (a) (1) In addition to any other provisions of  
20 law, the court may require that the Department of Motor  
21 Vehicles prohibit any person who is convicted of a first  
22 offense violation of Section 23152 or Section 23153 from  
23 operating a motor vehicle unless that vehicle is equipped  
24 with a functioning, certified ignition interlock device.  
25 The court shall give heightened consideration to applying  
26 this sanction to first offense violators with 0.20 percent or  
27 more, by weight, of alcohol in his or her blood at arrest,  
28 or with two or more prior moving traffic violations, or of  
29 persons who refused the chemical tests at arrest. If the  
30 court orders the ignition interlock device restriction, the  
31 term shall be determined by the court for a period not to  
32 exceed three years.

33 (2) The court shall require any person who is  
34 convicted of a violation of Section 14601.2 to install an  
35 ignition interlock device on any vehicle that the person  
36 owns or operates for a period not to exceed three years.

37 (b) The court shall include on the abstract of  
38 conviction or violation submitted to the Department of  
39 Motor Vehicles under Section 1803 or 1816, the  
40 requirement and term for the use of a certified ignition



1 interlock device. The records of the department shall  
2 reflect mandatory use of the device for the term ordered  
3 by the court.

4 (c) The court shall advise the person that installation  
5 of an ignition interlock device on a vehicle does not allow  
6 the person to drive without a valid driver's license.

7 (d) Any person whose driving privilege is restricted by  
8 the court pursuant to this section shall arrange for each  
9 vehicle with an ignition interlock device to be serviced by  
10 the installer at least once every 60 days in order for the  
11 installer to recalibrate and monitor the operation of the  
12 device. The installer shall notify the court if the device  
13 indicates that the person has attempted to remove,  
14 bypass, or tamper with the device, or if the person fails  
15 three or more times to comply with any requirement for  
16 the maintenance or calibration of the ignition interlock  
17 device. There is no obligation for the installer to notify the  
18 court if the person has complied with all of the  
19 requirements of this article.

20 (e) The court shall monitor the installation and  
21 maintenance of any ignition interlock device restriction  
22 ordered pursuant to subdivision (a) or (l). If any person  
23 fails to comply with the court order, the court shall give  
24 notice of the fact to the department pursuant to Section  
25 40509.1.

26 (f) (1) Pursuant to Section 13352, if any person is  
27 convicted of a violation of Section 23152 or 23153, and the  
28 offense occurred within seven years of one or more  
29 separate violations of Section 23152 or 23153 that resulted  
30 in a conviction, the person may apply to the Department  
31 of Motor Vehicles for a restricted driver's license  
32 pursuant to Section 13352 that prohibits the person from  
33 operating a motor vehicle unless that vehicle is equipped  
34 with a functioning ignition interlock device, certified  
35 pursuant to Section 13386. The restriction shall remain in  
36 effect for at least the remaining period of the original  
37 suspension or revocation and until all reinstatement  
38 requirements in Section 13352 are met.

39 (2) Pursuant to subdivision (g), the Department of  
40 Motor Vehicles shall immediately terminate the



1 restriction issued pursuant to Section 13352 and shall  
2 immediately suspend or revoke the privilege to operate  
3 a motor vehicle of any person who attempts to remove,  
4 bypass, or tamper with the device, or who fails three or  
5 more times to comply with any requirement for the  
6 maintenance or calibration of the ignition interlock  
7 device ordered pursuant to Section 13352. The privilege  
8 shall remain suspended or revoked for the remaining  
9 period of the originating suspension or revocation and  
10 until all reinstatement requirements in Section 13352 are  
11 met.

12 (g) Any person whose driving privilege is restricted by  
13 the Department of Motor Vehicles pursuant to Section  
14 13352 shall arrange for each vehicle with an ignition  
15 interlock device to be serviced by the installer at least  
16 once every 60 days in order for the installer to recalibrate  
17 the device and monitor the operation of the device. The  
18 installer shall notify the Department of Motor Vehicles if  
19 the device indicates that the person has attempted to  
20 remove, bypass, or tamper with the device, or if the  
21 person fails three or more times to comply with any  
22 requirement for the maintenance or calibration of the  
23 ignition interlock device. There is no obligation on the  
24 part of the installer to notify the department or the court  
25 if the person has complied with all of the requirements of  
26 this section.

27 (h) Nothing in this section permits a person to drive  
28 without a valid driver's license.

29 (i) The Department of Motor Vehicles shall include  
30 information along with the order of suspension or  
31 revocation for repeat offenders informing them that after  
32 a specified period of suspension or revocation has been  
33 completed, the person may either install an ignition  
34 interlock device on any vehicle that the person owns or  
35 operates or remain with a suspended or revoked driver's  
36 license.

37 (j) Pursuant to this section, out-of-state residents who  
38 otherwise would qualify for an ignition interlock device  
39 restricted license in California shall be prohibited from  
40 operating a motor vehicle in California unless that vehicle



1 is equipped with a functioning ignition interlock device.  
2 No ignition interlock device is required to be installed on  
3 any vehicle owned by the defendant that is not driven in  
4 California.

5 (k) If a person has a medical problem that does not  
6 permit the person to breathe with sufficient strength to  
7 activate the device, then that person shall only have the  
8 suspension option.

9 (l) This section does not restrict a court from requiring  
10 installation of an ignition interlock device for any persons  
11 to whom subdivision (a) or (b) does not apply.

12 (m) For purposes of this section, “vehicle” does not  
13 include a motorcycle until the state certifies an ignition  
14 interlock device that can be installed on a motorcycle.  
15 Any person subject to an ignition interlock device  
16 restriction shall not operate a motorcycle for the duration  
17 of the ignition interlock device restriction period.

18 (n) For purposes of this section, “owned” means solely  
19 owned or owned in conjunction with another person or  
20 legal entity. For purposes of this section, “operates”  
21 includes operating vehicles that are not owned by the  
22 person subject to this section.

23 SEC. 28. Section 23247 of the Vehicle Code, as  
24 amended by Section 22 of Chapter 756 of the Statutes of  
25 1998, is amended to read:

26 23247. (a) It is unlawful for a person to knowingly  
27 rent, lease, or lend a motor vehicle to another person  
28 known to have had his or her driving privilege restricted  
29 as provided in Section 13352 or 23575, unless the vehicle  
30 is equipped with a functioning, certified ignition  
31 interlock device. Any person, whose driving privilege is  
32 restricted pursuant to Section 13352 or 23575 shall notify  
33 any other person who rents, leases, or loans a motor  
34 vehicle to him or her of the driving restriction imposed  
35 under that section.

36 (b) It is unlawful for any person whose driving  
37 privilege is restricted pursuant to Section 13352 or 23575  
38 to request or solicit any other person to blow into an  
39 ignition interlock device or to start a motor vehicle



1 equipped with the device for the purpose of providing  
2 the person so restricted with an operable motor vehicle.

3 (c) It is unlawful to blow into an ignition interlock  
4 device or to start a motor vehicle equipped with the  
5 device for the purpose of providing an operable motor  
6 vehicle to a person whose driving privilege is restricted  
7 pursuant to Section 13352 or 23575.

8 (d) It is unlawful to remove, bypass, or tamper with,  
9 an ignition interlock device.

10 (e) It is unlawful for any person whose driving  
11 privilege is restricted pursuant to Section 13352 or 23575  
12 to operate any vehicle not equipped with a functioning  
13 ignition interlock device.

14 (f) Any person convicted of a violation of this section  
15 shall be punished by imprisonment in the county jail for  
16 not more than six months or by a fine of not more than five  
17 thousand dollars (\$5,000), or by both that fine and  
18 imprisonment.

19 (g) (1) If any person whose driving privilege is  
20 restricted pursuant to Section 13352 is convicted of a  
21 violation of subdivision (e), the court shall notify the  
22 Department of Motor Vehicles, which shall immediately  
23 terminate the restriction and shall suspend or revoke the  
24 person's driving privilege for the remaining period of the  
25 originating suspension or revocation and until all  
26 reinstatement requirements in Section 13352 are met.

27 (2) If any person who is restricted pursuant to  
28 subdivision (a) or (l) of Section 23575 is convicted of a  
29 violation of subdivision (e), the department shall suspend  
30 the person's driving privilege for one year from the date  
31 of the conviction.

32 (h) Notwithstanding any other provision of law, if a  
33 vehicle in which an ignition interlock device has been  
34 installed is impounded, the manufacturer or installer of  
35 the device shall have the right to remove the device from  
36 the vehicle during normal business hours. No charge shall  
37 be imposed for the removal of the device nor shall the  
38 manufacturer or installer be liable for any removal,  
39 towing, impoundment, storage, release, or administrative  
40 costs or penalties associated with the impoundment.



1 Upon request, the person seeking to remove the device  
2 shall present documentation to justify removal of the  
3 device from the vehicle. Any damage to the vehicle  
4 resulting from the removal of the device is the  
5 responsibility of the person removing it.

6 SEC. 29. Section 23249.52 of the Vehicle Code is  
7 amended and renumbered to read:

8 23646. (a) Each county shall develop, implement,  
9 operate, and administer an alcohol and drug problem  
10 assessment program pursuant to this article for each  
11 person described in subdivision (b). The alcohol and drug  
12 problem assessment program may include a referral and  
13 client tracking component.

14 (b) (1) The court shall order a person to participate  
15 in an alcohol and drug problem assessment program  
16 pursuant to this section and Sections 23647 to 23649,  
17 inclusive, and the related regulations of the State  
18 Department of Alcohol and Drug Programs, if the person  
19 was convicted of a violation of Section 23152 or 23153 that  
20 occurred within seven years of a separate violation of  
21 Section 23152 or 23153 and resulted in a conviction, the  
22 person was required to attend a licensed program  
23 pursuant to a court order, and the person has once failed  
24 to comply with the rules and policies of the licensed  
25 program, other than a rule relating to the payment of  
26 fees, in accordance with the rules and regulations of the  
27 state department.

28 (2) A court may order any person convicted of a  
29 violation of Section 23152 or 23153 to attend an alcohol  
30 and drug problem assessment program pursuant to this  
31 article.

32 (c) The State Department of Alcohol and Drug  
33 Programs shall establish minimum specifications for  
34 alcohol and other drug problem assessments and reports  
35 not later than September 30, 1999.

36 SEC. 30. Section 23249.53 of the Vehicle Code is  
37 amended and renumbered to read:

38 23647. (a) Any person convicted of a violation of  
39 Section 23152 or 23153 who is required to participate in a



1 county alcohol and drug problem assessment program  
2 shall participate in that program.

3 (b) Any person convicted of a violation of Section  
4 23103, as specified in Section 23103.5, in a judicial district  
5 that participates in a county alcohol and drug problem  
6 assessment program pursuant to this article, may be  
7 ordered to participate in the program.

8 SEC. 31. Section 23249.54 of the Vehicle Code, as  
9 amended by Section 6 of Chapter 656 of the Statutes of  
10 1998, is amended and renumbered to read:

11 23648. (a) An alcohol and drug problem assessment  
12 report shall be made on each person who participates in  
13 the program. The report may be used to determine the  
14 appropriate sentence for any person convicted of a  
15 violation of Section 23103, as specified in Section 23103.5,  
16 or Section 23152, or 23153.

17 (b) This section shall remain in effect only until  
18 January 1, 2000, and as of that date is repealed, unless a  
19 later enacted statute, that is enacted before January 1,  
20 2000, deletes or extends that date.

21 SEC. 32. Section 23249.54 of the Vehicle Code, as  
22 added by Section 7 of Chapter 656 of the Statutes of 1998,  
23 is amended and renumbered to read:

24 23648. (a) Each county shall prepare, or contract to  
25 be prepared, an alcohol and drug problem assessment  
26 report on each person described in subdivision (b) of  
27 Section 23646.

28 (b) The assessment report shall include, if applicable,  
29 a recommendation for any additional treatment and the  
30 duration of the treatment. The treatment shall be in  
31 addition to the education and counseling program  
32 required under Section 11837 of the Health and Safety  
33 Code. The assessment report shall be submitted to the  
34 court not more than 14 days after the date the assessment  
35 was conducted.

36 (c) Within 30 days of the receipt of the report, the  
37 court shall order the person to complete the  
38 recommendations set forth in the report in satisfaction of,  
39 and consistent with, the terms and conditions of  
40 probation. If the court elects not to order the completion



1 of the recommended plan, the court shall specify on the  
2 record its reason for not adopting these  
3 recommendations.

4 (d) This section shall become operative on January 1,  
5 2000.

6 SEC. 33. Section 23249.55 of the Vehicle Code is  
7 amended and renumbered to read:

8 23649. (a) Notwithstanding any other provision of  
9 law, in addition to any other fine or penalty assessment,  
10 there shall be levied an assessment of not more than one  
11 hundred dollars (\$100) upon every fine, penalty, or  
12 forfeiture imposed and collected by the courts for a  
13 violation of Section 23152 or 23153 in any judicial district  
14 that participates in a county alcohol and drug problem  
15 assessment program. An assessment of not more than one  
16 hundred dollars (\$100) shall be imposed and collected by  
17 the courts from each person convicted of a violation of  
18 Section 23103, as specified in Section 23103.5, who is  
19 ordered to participate in a county alcohol and drug  
20 problem assessment program pursuant to Section 23647.

21 (b) The court shall determine if the defendant has the  
22 ability to pay the assessment. If the court determines that  
23 the defendant has the ability to pay the assessment then  
24 the court may set the amount to be reimbursed and order  
25 the defendant to pay that sum to the county in the  
26 manner that the court determines is reasonable and  
27 compatible with the defendant's financial ability. In  
28 making a determination of whether a defendant has the  
29 ability to pay, the court shall take into account the amount  
30 of any fine imposed upon the defendant and any amount  
31 the defendant has been ordered to pay in restitution.

32 (c) Notwithstanding Section 1463 or 1464 of the Penal  
33 Code or any other provision of law, all moneys collected  
34 pursuant to this section shall be deposited in a special  
35 account in the county treasury and shall be used  
36 exclusively to pay for the costs of developing,  
37 implementing, operating, maintaining, and evaluating  
38 alcohol and drug problem assessment programs.

39 (d) On January 15 of each year, the treasurer of each  
40 county that administers an alcohol and drug problem



1 assessment program shall determine those moneys in the  
2 special account that were not expended during the  
3 preceding fiscal year, and shall transfer those moneys to  
4 the general fund of the county.

5 (e) Any moneys remaining in the special account, if  
6 and when the alcohol and drug problem assessment  
7 program is terminated, shall be transferred to the general  
8 fund of the county.

9 (f) The county treasurer shall annually transfer an  
10 amount of money equal to the county's administrative  
11 cost incurred pursuant to this section, as he or she shall  
12 determine, from the special account to the general fund  
13 of the county.

14 SEC. 34. Section 23546 of the Vehicle Code is  
15 amended to read:

16 23546. (a) If any person is convicted of a violation of  
17 Section 23152 and the offense occurred within seven  
18 years of two separate violations of Section 23103, as  
19 specified in Section 23103.5, which occurred on or after  
20 January 1, 1982, 23152, or 23153, or any combination  
21 thereof, which resulted in convictions, that person shall  
22 be punished by imprisonment in the county jail for not  
23 less than 120 days nor more than one year and by a fine  
24 of not less than three hundred ninety dollars (\$390) nor  
25 more than one thousand dollars (\$1,000). The person's  
26 privilege to operate a motor vehicle shall be revoked as  
27 required in paragraph (5) of subdivision (a) of Section  
28 13352. The court shall require the person to surrender his  
29 or her driver's license to the court in accordance with  
30 Section 13550.

31 (b) Any person convicted of a violation of Section  
32 23152 punishable under this section shall be designated as  
33 an habitual traffic offender for a period of three years,  
34 subsequent to the conviction. The person shall be advised  
35 of this designation pursuant to subdivision (b) of Section  
36 13350.

37 SEC. 34.2. Section 23550 of the Vehicle Code is  
38 amended to read:

39 23550. (a) If any person is convicted of a violation of  
40 Section 23152 and the offense occurred within seven



1 years of three or more separate violations of Section  
2 23103, as specified in Section 23103.5, or Section 23152 or  
3 23153, or any combination thereof, which resulted in  
4 convictions, that person shall be punished by  
5 imprisonment in the state prison, or in a county jail for not  
6 less than 180 days nor more than one year, and by a fine  
7 of not less than three hundred ninety dollars (\$390) nor  
8 more than one thousand dollars (\$1,000). The person's  
9 privilege to operate a motor vehicle shall be revoked by  
10 the Department of Motor Vehicles pursuant to paragraph  
11 (7) of subdivision (a) of Section 13352.

12 (b) Any person convicted of a violation of Section  
13 23152 punishable under this section shall be designated as  
14 an habitual traffic offender for a period of three years,  
15 subsequent to the conviction. The person shall be advised  
16 of this designation pursuant to subdivision (b) of Section  
17 13350.

18 SEC. 34.6. Section 23550.5 of the Vehicle Code is  
19 amended to read:

20 23550.5. (a) A person is guilty of a public offense,  
21 punishable by imprisonment in the state prison or in a  
22 county jail for not more than one year and by a fine of not  
23 less than three hundred ninety dollars (\$390) nor more  
24 than one thousand dollars (\$1,000) if that person is  
25 convicted of a violation of Section 23152 or 23153, and the  
26 offense occurred within 10 years of any of the following:

27 (1) A prior violation of Section 23152 that was  
28 punished as a felony under Section 23550 or this section,  
29 or both.

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

32 (3) A prior violation that was punished as a felony  
33 under Section 191.5 of, or paragraph (1) or (3) of  
34 subdivision (c) of Section 192 of, the Penal Code. The  
35 person's privilege to operate a motor vehicle shall be  
36 revoked by the Department of Motor Vehicles under  
37 paragraph (7) of subdivision (a) of Section 13352.

38 (b) Any person convicted of a violation of Section  
39 23152 that is punishable under this section shall be  
40 designated an habitual traffic offender for a period of



1 three years, subsequent to the conviction. The person  
2 shall be advised of this designation under subdivision (b)  
3 of Section 13350.

4 SEC. 35. Section 23522 of the Vehicle Code is  
5 repealed.

6 SEC. 35.2. Section 23524 of the Vehicle Code is  
7 repealed.

8 SEC. 35.7. Section 23552 of the Vehicle Code is  
9 amended to read:

10 23552. (a) If the court grants probation to any person  
11 punished under Section 23550, in addition to the  
12 provisions of Section 23600 and any other terms and  
13 conditions imposed by the court, the court shall impose  
14 as conditions of probation that the person be confined in  
15 a county jail for at least 180 days but not more than one  
16 year and pay a fine of at least three hundred ninety dollars  
17 (\$390) but not more than one thousand dollars (\$1,000).  
18 The person's privilege to operate a motor vehicle shall be  
19 revoked by the Department of Motor Vehicles pursuant  
20 to paragraph (7) of subdivision (a) of Section 13352.

21 (b) In addition to subdivision (a), if the court grants  
22 probation to any person punished under Section 23550,  
23 the court may order as a condition of probation that the  
24 person participate, for at least 30 months subsequent to  
25 the underlying conviction and in a manner satisfactory to  
26 the court, in a program licensed pursuant to Chapter 9  
27 (commencing with Section 11836) of Part 2 of Division  
28 10.5 of the Health and Safety Code. In lieu of the  
29 minimum term of imprisonment in subdivision (a), the  
30 court shall impose as a condition of probation under this  
31 subdivision that the person be confined in the county jail  
32 for at least 30 days but not more than one year. The court  
33 shall not order the treatment prescribed by this  
34 subdivision unless the person makes a specific request  
35 and shows good cause for the order, whether or not the  
36 person has previously completed a treatment program  
37 pursuant to paragraph (4) of subdivision (b) of Section  
38 23542 or paragraph (4) of subdivision (b) of Section  
39 23562. A person ordered to treatment pursuant to this  
40 subdivision shall apply to the court or to a board of review,



1 as designated by the court, at the conclusion of the  
2 program to obtain the court's order of satisfaction. Only  
3 upon the granting of that order of satisfaction by the court  
4 may the program issue its certificate of successful  
5 completion and report the completion to the  
6 Department of Motor Vehicles. A failure to obtain an  
7 order of satisfaction at the conclusion of the program is a  
8 violation of probation. In order to enable all required  
9 persons to participate, each person shall pay the program  
10 costs commensurate with the person's ability to pay as  
11 determined pursuant to Section 11837.4 of the Health and  
12 Safety Code. No condition of probation required  
13 pursuant to this subdivision is a basis for reducing any  
14 other probation requirement in this section or Section  
15 23600 or for avoiding the mandatory license revocation  
16 provisions of paragraph (7) of subdivision (a) of Section  
17 13352.

18 (c) In addition to the provisions of Section 23600 and  
19 subdivision (a), if the court grants probation to any  
20 person punished under Section 23550 who has not  
21 previously completed a treatment program pursuant to  
22 paragraph (4) of subdivision (b) of Section 23542 or  
23 paragraph (4) of subdivision (b) of Section 23562, and  
24 unless the person is ordered to participate in, and  
25 complete, a program under subdivision (b), the court  
26 shall impose as a condition of probation that the person,  
27 subsequent to the date of the current violation, enroll in  
28 and participate, for at least 18 months and in a manner  
29 satisfactory to the court, in a program licensed pursuant  
30 to Chapter 9 (commencing with Section 11836) of Part 2  
31 of Division 10.5 of the Health and Safety Code, as  
32 designated by the court. The person shall complete the  
33 entire program subsequent to, and shall not be given any  
34 credit for program activities completed prior to, the date  
35 of the current violation. Any person who has previously  
36 completed a 12-month or 18-month program licensed  
37 pursuant to Chapter 9 (commencing with Section 11836)  
38 of Part 2 of Division 10.5 of the Health and Safety Code  
39 shall not be eligible for referral pursuant to this  
40 subdivision unless a 30-month licensed program is not



1 available for referral in the county of the person's  
2 residence or employment. No condition of probation  
3 required pursuant to this subdivision is a basis for  
4 reducing any other probation requirement in this section  
5 or Section 23600 or for avoiding the mandatory license  
6 revocation provisions of paragraph (7) of subdivision (a)  
7 of Section 13352.

8 SEC. 36. Section 23566 of the Vehicle Code is  
9 amended to read:

10 23566. (a) If any person is convicted of a violation of  
11 Section 23153 and the offense occurred within seven  
12 years of two or more separate violations of Section 23103,  
13 as specified in Section 23103.5, or Section 23152 or 23153,  
14 or any combination of these violations, which resulted in  
15 convictions, that person shall be punished by  
16 imprisonment in the state prison for a term of two, three,  
17 or four years and by a fine of not less than one thousand  
18 fifteen dollars (\$1,015) nor more than five thousand  
19 dollars (\$5,000). The person's privilege to operate a motor  
20 vehicle shall be revoked by the Department of Motor  
21 Vehicles pursuant to paragraph (6) of subdivision (a) of  
22 Section 13352.

23 (b) If any person is convicted of a violation of Section  
24 23153, and the act or neglect proximately causes great  
25 bodily injury, as defined in Section 12022.7 of the Penal  
26 Code, to any person other than the driver, and the offense  
27 occurred within seven years of two or more separate  
28 violations of Section 23103, as specified in Section 23103.5,  
29 or Section 23152 or 23153, or any combination of these  
30 violations, which resulted in convictions, that person shall  
31 be punished by imprisonment in the state prison for a  
32 term of two, three, or four years and by a fine of not less  
33 than one thousand fifteen dollars (\$1,015) nor more than  
34 five thousand dollars (\$5,000). The person's privilege to  
35 operate a motor vehicle shall be revoked by the  
36 Department of Motor Vehicles pursuant to paragraph (6)  
37 of subdivision (a) of Section 13352.

38 (c) If any person is convicted under subdivision (b),  
39 and the offense for which the person is convicted  
40 occurred within seven years of four or more separate



1 violations of Section 23103, as specified in Section 23103.5,  
2 or Section 23152 or 23153, or any combination of these  
3 violations, that resulted in convictions, that person shall,  
4 in addition and consecutive to the sentences imposed  
5 under subdivision (b), be punished by an additional term  
6 of imprisonment in the state prison for three years.

7 The enhancement allegation provided in this  
8 subdivision shall be pleaded and proved as provided by  
9 law.

10 (d) Any person convicted of Section 23153 punishable  
11 under this section shall be designated as an habitual traffic  
12 offender for a period of three years, subsequent to the  
13 conviction. The person shall be advised of this designation  
14 pursuant to subdivision (b) of Section 13350.

15 (e) Any person confined in state prison under this  
16 section shall be ordered by the court to participate in an  
17 alcohol or drug program, or both, that is available at the  
18 prison during the person's confinement. Completion of  
19 an alcohol or drug program under this section does not  
20 meet the program completion requirement of paragraph  
21 (6) of subdivision (a) of Section 13352, unless the drug or  
22 alcohol program is licensed under Chapter 9  
23 (commencing with Section 11836) of Part 2 of Division  
24 10.5 of the Health and Safety Code, or is a program  
25 specified in Section 8001 of the Penal Code.

26 SEC. 37. Section 23568 of the Vehicle Code is  
27 amended to read:

28 23568. (a) If the court grants probation to any person  
29 punished under Section 23566, in addition to the  
30 provisions of Section 23600 and any other terms and  
31 conditions imposed by the court, the court shall impose  
32 as conditions of probation that the person be confined in  
33 the county jail for at least one year, that the person pay  
34 a fine of at least three hundred ninety dollars (\$390) but  
35 not more than five thousand dollars (\$5,000), and that the  
36 person make restitution or reparation pursuant to Section  
37 1203.1 of the Penal Code. The person's privilege to  
38 operate a motor vehicle shall be revoked by the  
39 Department of Motor Vehicles pursuant to paragraph (6)  
40 of subdivision (a) of Section 13352.



1 (b) In addition to Section 23600 and subdivision (a), if  
2 the court grants probation to any person punished under  
3 Section 23566, the court shall impose as a condition of  
4 probation that the person enroll in and complete,  
5 subsequent to the date of the underlying violation and in  
6 a manner satisfactory to the court, an 18-month program  
7 or, if available in the county of the person's residence or  
8 employment, a 30-month program licensed pursuant to  
9 Chapter 9 (commencing with Section 11836) of Part 2 of  
10 Division 10.5 of the Health and Safety Code, as designated  
11 by the court. The person shall complete the entire  
12 program subsequent to, and shall not be given any credit  
13 for program activities completed prior to, the date of the  
14 current violation. In lieu of the minimum term of  
15 imprisonment in subdivision (a), the court shall impose  
16 as a minimum condition of probation under this  
17 subdivision that the person be confined in the county jail  
18 for at least 30 days but not more than one year. Except as  
19 provided in this subdivision, if the court grants probation  
20 under this section, the court shall order the treatment  
21 prescribed by this subdivision, whether or not the person  
22 has previously completed a treatment program pursuant  
23 to paragraph (4) of subdivision (b) of Section 23542 or  
24 paragraph (4) of subdivision (b) of Section 23562. A  
25 person ordered to treatment pursuant to this subdivision  
26 shall apply to the court or to a board of review, as  
27 designated by the court, at the conclusion of the program  
28 to obtain the court's order of satisfaction. Only upon the  
29 granting of that order of satisfaction by the court may the  
30 program issue its certificate of successful completion and  
31 report the completion to the Department of Motor  
32 Vehicles. A failure to obtain an order of satisfaction at the  
33 conclusion of the program is a violation of probation. In  
34 order to enable all required persons to participate, each  
35 person shall pay the program costs commensurate with  
36 the person's ability to pay as determined pursuant to  
37 Section 11837.4 of the Health and Safety Code. No  
38 condition of probation required pursuant to this  
39 subdivision is a basis for reducing any other probation  
40 requirement in this section or Section 23600 or for



1 avoiding the mandatory license revocation provisions of  
2 paragraph (6) of subdivision (a) of Section 13352.

3 SEC. 38. Section 23572 of the Vehicle Code is  
4 amended to read:

5 23572. (a) If any person is convicted of a violation of  
6 Section 23152 and a minor under 14 years of age was a  
7 passenger in the vehicle at the time of the offense, the  
8 court shall impose the following penalties in addition to  
9 any other penalty prescribed:

10 (1) If the person is convicted of a violation of Section  
11 23152 punishable under Section 23536, the punishment  
12 shall be enhanced by an imprisonment of 48 continuous  
13 hours in the county jail, whether or not probation is  
14 granted, no part of which shall be stayed.

15 (2) If a person is convicted of a violation of Section  
16 23152 punishable under Section 23540, the punishment  
17 shall be enhanced by an imprisonment of 10 days in the  
18 county jail, whether or not probation is granted, no part  
19 of which may be stayed.

20 (3) If a person is convicted of a violation of Section  
21 23152 punishable under Section 23546, the punishment  
22 shall be enhanced by an imprisonment of 30 days in the  
23 county jail, whether or not probation is granted, no part  
24 of which may be stayed.

25 (4) If a person is convicted of a violation of Section  
26 23152 which is punished as a misdemeanor under Section  
27 23550, the punishment shall be enhanced by an  
28 imprisonment of 90 days in the county jail, whether or not  
29 probation is granted, no part of which may be stayed.

30 (b) The driving of a vehicle in which a minor under 14  
31 years of age was a passenger shall be pled and proven.

32 (c) No punishment enhancement shall be imposed  
33 pursuant to this section if the person is also convicted of  
34 a violation of Section 273a of the Penal Code arising out  
35 of the same facts and incident.

36 SEC. 39. Section 23577 of the Vehicle Code is  
37 amended to read:

38 23577. (a) If any person is convicted of a violation of  
39 Section 23152 or 23153, and at the time of the arrest  
40 leading to that conviction that person willfully refused a



1 peace officer's request to submit to, or willfully failed to  
2 complete, the chemical test or tests pursuant to Section  
3 23612, the court shall impose the following penalties:

4 (1) If the person is convicted of a first violation of  
5 Section 23152, notwithstanding any other provision of  
6 subdivision (a) of Section 23538, the terms and conditions  
7 of probation shall include the conditions in paragraph (1)  
8 of subdivision (a) of Section 23538.

9 (2) If the person is convicted of a first violation of  
10 Section 23153, the punishment shall be enhanced by an  
11 imprisonment of 48 continuous hours in the county jail,  
12 whether or not probation is granted and no part of which  
13 may be stayed, unless the person is sentenced to, and  
14 incarcerated in, the state prison and the execution of that  
15 sentence is not stayed.

16 (3) If the person is convicted of a second violation of  
17 Section 23152, punishable under Section 23540, or a  
18 second violation of Section 23153, punishable under  
19 Section 23560, the punishment shall be enhanced by an  
20 imprisonment of 96 hours in the county jail, whether or  
21 not probation is granted and no part of which may be  
22 stayed, unless the person is sentenced to, and  
23 incarcerated in, the state prison and execution of that  
24 sentence is not stayed.

25 (4) If the person is convicted of a third violation of  
26 Section 23152, punishable under Section 23546, the  
27 punishment shall be enhanced by an imprisonment of 10  
28 days in the county jail, whether or not probation is  
29 granted and no part of which may be stayed.

30 (5) If the person is convicted of a fourth or subsequent  
31 violation of Section 23152, punishable under Section  
32 23550 or 23550.5, the punishment shall be enhanced by  
33 imprisonment of 18 days in the county jail, whether or not  
34 probation is granted and no part of which may be stayed.

35 (b) The willful refusal or failure to complete the  
36 chemical test required pursuant to Section 23612 shall be  
37 pled and proven.

38 SEC. 40. Section 23590 of the Vehicle Code is  
39 repealed.



1 SEC. 40.2. Section 23596 of the Vehicle Code is  
2 repealed.

3 SEC. 40.4. Section 23596 is added to the Vehicle Code,  
4 to read:

5 23596. (a) (1) Upon its own motion or upon motion  
6 of the prosecutor in a criminal action for a violation of any  
7 of the following offenses, the court with jurisdiction over  
8 the offense, notwithstanding Section 86 of the Code of  
9 Civil Procedure and any other provision of law otherwise  
10 prescribing the jurisdiction of the court based upon the  
11 value of the property involved, may declare the motor  
12 vehicle driven by the defendant to be a nuisance if the  
13 defendant is the registered owner of the vehicle:

14 (A) A violation of Section 191.5 of, or paragraph (3) of  
15 subdivision (c) of Section 192 of, the Penal Code.

16 (B) A violation of Section 23152 which occurred within  
17 seven years of two or more separate offenses of Section  
18 191.5 of, or paragraph (3) of subdivision (c) of Section 192  
19 of, the Penal Code, or Section 23152 or 23153, or any  
20 combination thereof, which resulted in convictions.

21 (C) A violation of Section 23153 which occurred within  
22 seven years of one or more separate offenses of Section  
23 191.5 of, or paragraph (3) of subdivision (c) of Section 192  
24 of, the Penal Code, or Section 23152 or 23153, which  
25 resulted in convictions.

26 (2) The court or the prosecutor shall give notice of the  
27 motion to the defendant, and the court shall hold a  
28 hearing before a motor vehicle may be declared a  
29 nuisance under this section.

30 (b) Except as provided in subdivision (g), upon the  
31 conviction of the defendant and at the time of  
32 pronouncement of sentence, the court with jurisdiction  
33 over the offense shall order any vehicle declared to be a  
34 nuisance pursuant to subdivision (a) to be sold. Any  
35 vehicle ordered to be sold pursuant to this subdivision  
36 shall be surrendered to the sheriff of the county or the  
37 chief of police of the city in which the violation occurred.  
38 The officer to whom the vehicle is surrendered shall  
39 promptly ascertain from the department the names and  
40 addresses of all legal and registered owners of the vehicle



1 and, within five days of receiving that information, shall  
2 send by certified mail a notice to all legal and registered  
3 owners of the vehicle other than the defendant, at the  
4 addresses obtained from the department, informing  
5 them that the vehicle has been declared a nuisance and  
6 will be sold or otherwise disposed of pursuant to this  
7 section and of the approximate date and location of the  
8 sale or other disposition. The notice shall also inform any  
9 legal owner of its right to conduct the sale pursuant to  
10 subdivision (c).

11 (c) Any legal owner who is a motor vehicle dealer,  
12 bank, credit union, acceptance corporation, or other  
13 licensed finance institution legally operating in this state,  
14 or the agent of that legal owner, may take possession and  
15 conduct the sale of the vehicle declared to be a nuisance  
16 if it notifies the officer to whom the vehicle is surrendered  
17 of its intent to conduct the sale within 15 days of the  
18 mailing of the notice pursuant to subdivision (b). Sale of  
19 the vehicle pursuant to this subdivision may be  
20 conducted at the time, in the manner, and on the notice  
21 usually given for the sale of repossessed or surrendered  
22 vehicles. The proceeds of any sale conducted by the legal  
23 owner shall be disposed of as provided in subdivision (e).  
24 A notice pursuant to this subdivision may be presented in  
25 person, by certified mail, by facsimile transmission, or by  
26 electronic mail. The agent of a legal owner acting  
27 pursuant to this subdivision shall be licensed, or exempt  
28 from licensure, pursuant to Chapter 11 (commencing  
29 with Section 7500) of Division 3 of the Business and  
30 Professions Code.

31 (d) If the legal owner or the agent of the legal owner  
32 does not notify the officer to whom the vehicle is  
33 surrendered of its intent to conduct the sale as provided  
34 in subdivision (c), the officer shall offer the vehicle for  
35 sale at public auction within 60 days of receiving the  
36 vehicle. At least 10 days but not more than 20 days prior  
37 to the sale, not counting the day of the sale, the officer  
38 shall give notice of the sale by advertising once in a  
39 newspaper of general circulation published in the city or  
40 county, as the case may be, in which the vehicle is located,



1 which notice shall contain a description of the make, year,  
2 model, identification number, and license number of the  
3 vehicle and the date, time, and location of the sale. For  
4 motorcycles, the engine number shall also be included. If  
5 there is no newspaper of general circulation published in  
6 the county, notice shall be given by posting a notice of sale  
7 containing the information required by this subdivision in  
8 three of the most public places in the city or county in  
9 which the vehicle is located, and at the place where the  
10 vehicle is to be sold, for 10 consecutive days prior to and  
11 including the day of the sale.

12 (e) The proceeds of a sale conducted pursuant to this  
13 section shall be disposed of in the following priority:

14 (1) To satisfy the costs of the sale, including costs  
15 incurred with respect to the taking and keeping of the  
16 vehicle pending sale.

17 (2) To the legal owner in an amount to satisfy the  
18 indebtedness owed to the legal owner remaining as of the  
19 date of the sale, including accrued interest or finance  
20 charges and delinquency charges.

21 (3) To the holder of any subordinate lien or  
22 encumbrance on the vehicle to satisfy any indebtedness  
23 so secured if written notification of demand is received  
24 before distribution of the proceeds is completed. The  
25 holder of a subordinate lien or encumbrance, if  
26 requested, shall reasonably furnish reasonable proof of its  
27 interest and, unless it does so on request, is not entitled to  
28 distribution pursuant to this paragraph.

29 (4) To any other person who can establish an interest  
30 in the vehicle, including a community property interest,  
31 to the extent of his or her provable interest.

32 (5) If the vehicle was forfeited as a result of a felony  
33 violation of Section 191.5 of the Penal Code, or of Section  
34 23153 that resulted in serious bodily injury to any person  
35 other than the defendant, the balance, if any, to the city  
36 or county in which the violation occurred, to be deposited  
37 in its general fund.

38 (6) Except as provided in paragraph (5), the balance,  
39 if any, to the city or county in which the violation



1 occurred, to be expended for community-based  
2 adolescent substance abuse treatment services.

3 The person conducting the sale shall disburse the  
4 proceeds of the sale as provided in this subdivision, and  
5 provide a written accounting regarding the disposition to  
6 all persons entitled to or claiming a share of the proceeds,  
7 within 15 days after the sale is conducted.

8 (f) If the vehicle to be sold under this section is not of  
9 the type that can readily be sold to the public generally,  
10 the vehicle shall be destroyed or donated to an  
11 eleemosynary institution.

12 (g) No vehicle shall be sold pursuant to this section in  
13 either of the following circumstances:

14 (1) The vehicle is stolen, unless the identity of the legal  
15 and registered owners of the vehicle cannot be  
16 reasonably ascertained.

17 (2) The vehicle is owned by another, or there is a  
18 community property interest in the vehicle owned by a  
19 person other than the defendant and the vehicle is the  
20 only vehicle available to the defendant's immediate  
21 family that may be operated on the highway with a class  
22 3 or class 4 driver's license.

23 (h) The Legislature finds and declares it to be the  
24 public policy of this state that no policy of insurance shall  
25 afford benefits that would alleviate the financial  
26 detriment suffered by any person as a direct or indirect  
27 result of a confiscation of a vehicle pursuant to this  
28 section.

29 SEC. 40.6. Section 23600 of the Vehicle Code is  
30 amended to read:

31 23600. (a) If any person is convicted of a violation of  
32 Section 23152 or 23153, the court shall not stay or suspend  
33 pronouncement of sentencing, and shall pronounce  
34 sentence in conjunction with the conviction in a  
35 reasonable time, including time for receipt of any  
36 presentence investigation report ordered pursuant to  
37 Section 23655.

38 (b) If any person is convicted of a violation of Section  
39 23152 or 23153 and is granted probation, the terms and



1 conditions of probation shall include, but not be limited  
2 to, the following:

3 (1) Notwithstanding Section 1203a of the Penal Code,  
4 a period of probation not less than three nor more than  
5 five years; provided, however, that if the maximum  
6 sentence provided for the offense may exceed five years  
7 in the state prison, the period during which the sentence  
8 may be suspended and terms of probation enforced may  
9 be for a longer period than three years but may not  
10 exceed the maximum time for which sentence of  
11 imprisonment may be pronounced.

12 (2) A requirement that the person shall not drive a  
13 vehicle with any measurable amount of alcohol in his or  
14 her blood.

15 (3) A requirement that the person, if arrested for a  
16 violation of Section 23152 or 23153, shall not refuse to  
17 submit to a chemical test of his or her blood, breath, or  
18 urine, pursuant to Section 23612, for the purpose of  
19 determining the alcoholic content of his or her blood.

20 (4) A requirement that the person shall not commit  
21 any criminal offense.

22 (c) The court shall not absolve a person who is  
23 convicted of a violation of Section 23152 or 23153 from the  
24 obligation of spending the minimum time in  
25 confinement, if any, or of paying the minimum fine  
26 imposed by law.

27 (d) In addition to any other provision of law, if any  
28 person violates paragraph (2) or (3) of subdivision (b)  
29 and the person had a blood alcohol concentration of over  
30 0.04 percent as determined by a chemical test, the court  
31 shall revoke or terminate the person's probation as  
32 provided by Section 23602, regardless of any other  
33 proceeding, and shall only grant a new term of probation  
34 of not more than five years on the added condition that  
35 the person be confined in the county jail for not less than  
36 48 hours for each of these violations of probation, except  
37 in unusual cases where the interests of justice would best  
38 be served if this additional condition were not imposed.

39 SEC. 41. Section 23602 of the Vehicle Code is  
40 amended to read:



1 23602. Except as otherwise expressly provided in this  
2 code, if a person has been convicted of a violation of  
3 Section 23152 or 23153 and the court has suspended  
4 execution of the sentence for that conviction and has  
5 granted probation, and during the time of that probation,  
6 the person is found by the court to have violated a  
7 required term or condition of that probation, the court  
8 shall revoke the suspension of sentence, revoke or  
9 terminate probation, and shall proceed in the manner  
10 provided in subdivision (c) of Section 1203.2 of the Penal  
11 Code.

12 SEC. 42. Section 23640 of the Vehicle Code is  
13 amended to read:

14 23640. (a) In any case in which a person is charged  
15 with a violation of Section 23152 or 23153, prior to  
16 acquittal or conviction, the court shall neither suspend  
17 nor stay the proceedings for the purpose of allowing the  
18 accused person to attend or participate, nor shall the  
19 court consider dismissal of or entertain a motion to  
20 dismiss the proceedings because the accused person  
21 attends or participates during that suspension, in any one  
22 or more education, training, or treatment programs,  
23 including, but not limited to, a driver improvement  
24 program, a treatment program for persons who are  
25 habitual users of alcohol or other alcoholism program, a  
26 program designed to offer alcohol services to problem  
27 drinkers, an alcohol or drug education program, or a  
28 treatment program for persons who are habitual users of  
29 drugs or other drug-related program.

30 (b) This section shall not apply to any attendance or  
31 participation in any education, training, or treatment  
32 programs after conviction and sentencing, including  
33 attendance or participation in any of those programs as a  
34 condition of probation granted after conviction when  
35 permitted.

36 SEC. 43. Section 23650 of the Vehicle Code is  
37 amended to read:

38 23650. The Office of Traffic Safety shall adopt rules  
39 and guidelines to implement Sections 23646 to 23649,  
40 inclusive.



1 SEC. 44. Section 23655 of the Vehicle Code is  
2 amended to read:

3 23655. (a) Upon any conviction of a violation of  
4 Section 23152 or 23153, any judge of the court may order  
5 a presentence investigation to determine whether a  
6 person convicted of the violation would benefit from one  
7 or more education, training, or treatment programs, and  
8 the court may order suitable education, training, or  
9 treatment for the person, in addition to imposing any  
10 penalties required by this code.

11 (b) In determining whether to require, as a condition  
12 of probation, the participation in a program pursuant to  
13 subdivision (b) of Section 23538, subdivision (b) of  
14 Section 23542, subdivision (b) of Section 23548,  
15 subdivision (b) of Section 23552, subdivision (b) of  
16 Section 23556, subdivision (b) of Section 23562, or  
17 subdivision (b) of Section 23568, the court may consider  
18 any relevant information about the person made  
19 available pursuant to a presentence investigation, which  
20 is permitted but not required by subdivision (a), or other  
21 screening procedure. That information shall not be  
22 furnished to the court by any person who also provides  
23 services in a privately operated, approved program or  
24 who has any direct interest in a privately operated,  
25 approved program. In addition, the court shall obtain  
26 from the Department of Motor Vehicles a copy of the  
27 person's driving record to determine whether the person  
28 is eligible to participate in an approved program.

29 (c) The Judicial Council shall adopt a standard form  
30 for use by all courts, defendants, and alcohol or drug  
31 education programs in certifying to the court that the  
32 person has achieved both of the following:

- 33 (1) Enrolled within the specified time period.  
34 (2) Successfully completed any program required by  
35 Section 23538 or 23556.

36 SEC. 45. Section 23665 of the Vehicle Code is  
37 amended to read:

38 23665. If any person is convicted of a violation of  
39 Section 20001, or of Section 23152 or 23153 and is  
40 sentenced to one year in a county jail or more than one

1 year in the state prison under Section 23540, 23542, 23546,  
2 23548, 23550, 23552, 23554, 23556, 23558, 23560, 23562,  
3 23566, or 23568, the court may postpone the revocation or  
4 suspension of the person's driving privilege until the term  
5 of imprisonment is served.

6 SEC. 46. Except for Sections 4, 6, 17, 18, 18.1, and 40.2  
7 of this act, which sections shall become operative on the  
8 effective date of this act, this act shall become operative  
9 on July 1, 1999.

10 SEC. 47. No reimbursement is required by this act  
11 pursuant to Section 6 of Article XIII B of the California  
12 Constitution because the only costs that may be incurred  
13 by a local agency or school district will be incurred  
14 because this act creates a new crime or infraction,  
15 eliminates a crime or infraction, or changes the penalty  
16 for a crime or infraction, within the meaning of Section  
17 17556 of the Government Code, or changes the definition  
18 of a crime within the meaning of Section 6 of Article  
19 XIII B of the California Constitution.

20 SEC. 48. This act is an urgency statute necessary for  
21 the immediate preservation of the public peace, health,  
22 or safety within the meaning of Article IV of the  
23 Constitution and shall go into immediate effect. The facts  
24 constituting the necessity are:

25 In order to provide, at the earliest possible time, for the  
26 orderly implementation of Chapter 118 of the Statutes of  
27 1998, providing for the reorganization of the statutes  
28 governing driving while under the influence, for the  
29 orderly implementation of Chapters 582, 656, 661, and 756  
30 of the Statutes of 1998, relating to those statutes, and to  
31 enact related and conforming provisions, it is necessary  
32 that this act take effect immediately.

