

**ASSEMBLY BILL**

**No. 2687**

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**Introduced by Assembly Members Achadjian, Low, and Chang**

February 19, 2016

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An act to amend Sections 23152, 23153, and 23572 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2687, as introduced, Achadjian. Vehicles: passenger for hire: driving under the influence.

Existing law makes it unlawful for a person who is under the influence of any alcoholic beverage or drug to drive a vehicle. Existing law makes it unlawful for a person who has 0.04 percent or more, by weight, of alcohol in his or her blood to drive a commercial motor vehicle, as defined. Existing law also makes it unlawful for a person who has 0.05 percent or more, by weight, of alcohol in his or her blood to drive a commercial motor vehicle and concurrently do any act forbidden by law or neglect any duty imposed by law that proximately causes bodily injury to another person other than the driver.

This bill would make it unlawful for a person who has 0.04 percent or more, by weight, of alcohol in his or her blood to drive a motor vehicle when a passenger for hire, as defined, is a passenger in the vehicle at the time of the offense. The bill would also make it unlawful for a person who has 0.04 percent or more, by weight, of alcohol in his or her blood to drive a motor vehicle, as specified, and concurrently do any act or neglect any duty that proximately causes bodily injury to another person other than the driver. The bill would require the court to impose an additional and consecutive term of 60 days in county jail, as specified, when a person is convicted of having 0.04 percent or more

of alcohol in his or her blood and driving a motor vehicle with a passenger for hire. Because this bill would create a new crime, it would impose a state-mandated local program.

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

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

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 23152 of the Vehicle Code is amended  
2 to read:

3 23152. (a) It is unlawful for a person who is under the  
4 influence of any alcoholic beverage to drive a vehicle.

5 (b) It is unlawful for a person who has 0.08 percent or more, by  
6 weight, of alcohol in his or her blood to drive a vehicle.

7 For purposes of this article and Section 34501.16, percent, by  
8 weight, of alcohol in a person’s blood is based upon grams of  
9 alcohol per 100 milliliters of blood or grams of alcohol per 210  
10 liters of breath.

11 In any prosecution under this subdivision, it is a rebuttable  
12 presumption that the person had 0.08 percent or more, by weight,  
13 of alcohol in his or her blood at the time of driving the vehicle if  
14 the person had 0.08 percent or more, by weight, of alcohol in his  
15 or her blood at the time of the performance of a chemical test  
16 within three hours after the driving.

17 (c) It is unlawful for a person who is addicted to the use of any  
18 drug to drive a vehicle. This subdivision shall not apply to a person  
19 who is participating in a narcotic treatment program approved  
20 pursuant to Article 3 (commencing with Section 11875) of Chapter  
21 1 of Part 3 of Division 10.5 of the Health and Safety Code.

22 (d) (1) It is unlawful for a person who has 0.04 percent or more,  
23 by weight, of alcohol in his or her blood to drive a commercial  
24 motor vehicle, as defined in Section ~~15210~~ 15210, or to drive a  
25 motor vehicle when a passenger for hire is a passenger in the  
26 vehicle at the time of the offense. A passenger for hire means a  
27 passenger for whom consideration is contributed or expected as

1 *a condition of carriage in the vehicle, whether directly or indirectly*  
2 *flowing to the owner, operator, agent, or any other person having*  
3 *an interest in the vehicle.*

4 (2) In any prosecution under this subdivision, it is a rebuttable  
5 presumption that the person had 0.04 percent or more, by weight,  
6 of alcohol in his or her blood at the time of driving the vehicle if  
7 the person had 0.04 percent or more, by weight, of alcohol in his  
8 or her blood at the time of the performance of a chemical test  
9 within three hours after the driving.

10 (e) It is unlawful for a person who is under the influence of any  
11 drug to drive a vehicle.

12 (f) It is unlawful for a person who is under the combined  
13 influence of any alcoholic beverage and drug to drive a vehicle.

14 ~~(g) This section shall become operative on January 1, 2014.~~

15 SEC. 2. Section 23153 of the Vehicle Code is amended to read:

16 23153. (a) It is unlawful for a person, while under the influence  
17 of any alcoholic beverage to drive a vehicle and concurrently do  
18 any act forbidden by law, or neglect any duty imposed by law in  
19 driving the vehicle, which act or neglect proximately causes bodily  
20 injury to any person other than the driver.

21 (b) It is unlawful for a person, while having 0.08 percent or  
22 more, by weight, of alcohol in his or her blood to drive a vehicle  
23 and concurrently do any act forbidden by law, or neglect any duty  
24 imposed by law in driving the vehicle, which act or neglect  
25 proximately causes bodily injury to any person other than the  
26 driver.

27 In any prosecution under this subdivision, it is a rebuttable  
28 presumption that the person had 0.08 percent or more, by weight,  
29 of alcohol in his or her blood at the time of driving the vehicle if  
30 the person had 0.08 percent or more, by weight, of alcohol in his  
31 or her blood at the time of the performance of a chemical test  
32 within three hours after driving.

33 (c) In proving the person neglected any duty imposed by law  
34 in driving the vehicle, it is not necessary to prove that any specific  
35 section of this code was violated.

36 (d) (1) It is unlawful for a person, while having 0.04 percent  
37 or more, by weight, of alcohol in his or her blood to drive a  
38 commercial motor vehicle, as defined in Section 15210, *or to drive*  
39 *a motor vehicle when a passenger for hire is a passenger in the*  
40 *vehicle at the time of the offense*, and concurrently to do any act

1 forbidden by law or neglect any duty imposed by law in driving  
 2 the vehicle, which act or neglect proximately causes bodily injury  
 3 to any person other than the driver. *A passenger for hire means a*  
 4 *passenger for whom consideration is contributed or expected as*  
 5 *a condition of carriage in the vehicle, whether directly or indirectly*  
 6 *flowing to the owner, operator, agent, or any other person having*  
 7 *an interest in the vehicle.*

8 (2) In any prosecution under this subdivision, it is a rebuttable  
 9 presumption that the person had 0.04 percent or more, by weight,  
 10 of alcohol in his or her blood at the time of driving the vehicle if  
 11 the person had 0.04 percent or more, by weight, of alcohol in his  
 12 or her blood at the time of performance of a chemical test within  
 13 three hours after driving.

14 (e) It is unlawful for a person, while under the influence of any  
 15 drug, to drive a vehicle and concurrently do any act forbidden by  
 16 law, or neglect any duty imposed by law in driving the vehicle,  
 17 which act or neglect proximately causes bodily injury to any person  
 18 other than the driver.

19 (f) It is unlawful for a person, while under the combined  
 20 influence of any alcoholic beverage and drug, to drive a vehicle  
 21 and concurrently do any act forbidden by law, or neglect any duty  
 22 imposed by law in driving the vehicle, which act or neglect  
 23 proximately causes bodily injury to any person other than the  
 24 driver.

25 (g) This section shall become operative on January 1, 2014.

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

27 23572. (a) If any person is convicted of a violation of Section  
 28 23152 and a minor under 14 years of age was a passenger in the  
 29 vehicle at the time of the offense, the court shall impose the  
 30 following penalties in addition to any other penalty prescribed:

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

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

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

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

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

12 (c) No punishment enhancement shall be imposed pursuant to  
13 this section if the person is also convicted of a violation of Section  
14 273a of the Penal Code arising out of the same facts and incident.

15 *(d) If any person is convicted of a violation of Section 23152*  
16 *or 23153, and a passenger for hire was a passenger in the vehicle*  
17 *at the time of the offense, the court shall impose an additional and*  
18 *consecutive term of 60 days in the county jail, whether or not*  
19 *probation is granted, and no part of that term shall be stayed. A*  
20 *passenger for hire means a passenger for whom consideration is*  
21 *contributed or expected as a condition of carriage in the vehicle,*  
22 *whether directly or indirectly flowing to the owner, operator, agent,*  
23 *or any other person having an interest in the vehicle.*

24 SEC. 4. No reimbursement is required by this act pursuant to  
25 Section 6 of Article XIII B of the California Constitution because  
26 the only costs that may be incurred by a local agency or school  
27 district will be incurred because this act creates a new crime or  
28 infraction, eliminates a crime or infraction, or changes the penalty  
29 for a crime or infraction, within the meaning of Section 17556 of  
30 the Government Code, or changes the definition of a crime within  
31 the meaning of Section 6 of Article XIII B of the California  
32 Constitution.