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HEALTH AND SAFETY CODE - HSC

DIVISION 10.5. ALCOHOL AND DRUG PROGRAMS [11750 - 11975] (*Heading of Division 10.5 amended by Stats. 2013, Ch. 22, Sec. 18.)*

PART 2. STATE GOVERNMENT'S ROLE TO ALLEVIATE PROBLEMS RELATED TO THE INAPPROPRIATE USE OF ALCOHOLIC BEVERAGES AND OTHER DRUG USE [11760 - 11872] (*Heading of Part 2 amended by Stats. 2004, Ch. 862, Sec. 43.)*

CHAPTER 9. Services to Persons Convicted for Driving While Under the Influence of Alcohol and Other Drugs [11836 - 11838.11] (*Heading of Chapter 9 amended by Stats. 2004, Ch. 862, Sec. 104.)*

11836. (a) The department shall have the sole authority to issue, deny, suspend, or revoke the license of a driving-under-the-influence program. As used in this chapter, "program" means any firm, partnership, association, corporation, local governmental entity, agency, or place that has been initially recommended by the county board of supervisors, subject to any limitation imposed pursuant to subdivisions (c) and (d), and that is subsequently licensed by the department to provide alcohol or drug recovery services in that county to any of the following:

(1) A person whose license to drive has been administratively suspended or revoked for, or who is convicted of, a violation of Section 23152 or 23153 of the Vehicle Code, and admitted to a program pursuant to Section 13352, 13352.1, 23538, 23542, 23548, 23552, 23556, 23562, or 23568 of the Vehicle Code.

(2) A person who is convicted of a violation of subdivision (b), (c), (d), or (e) of Section 655 of the Harbors and Navigation Code, or of Section 655.4 of that code, and admitted to the program pursuant to Section 668 of that code.

(3) A person who has pled guilty or nolo contendere to a charge of a violation of Section 23103 of the Vehicle Code, under the conditions set forth in subdivision (c) of Section 23103.5 of the Vehicle Code, and who has been admitted to the program under subdivision (e) or (f) of Section 23103.5 of the Vehicle Code.

(4) A person whose license has been suspended, revoked, or delayed due to a violation of Section 23140, and who has been admitted to a program under Article 2 (commencing with Section 23502) of Chapter 1 of Division 11.5 of the Vehicle Code.

(b) If a firm, partnership, corporation, association, local government entity, agency, or place has, or is applying for, more than one license, the department shall treat each licensed program, or each program seeking licensure, as belonging to a separate firm, partnership, corporation, association, local government entity, agency, or place for the purposes of this chapter.

(c) For purposes of providing recommendations to the department pursuant to subdivision (a), a county board of supervisors may limit its recommendations to those programs that provide services for persons convicted of a first driving-under-the-influence offense, or services to those persons convicted of a second or subsequent driving-under-the-influence offense, or both services. If a county board of supervisors fails to provide recommendations, the department shall determine the program or programs to be licensed in that county.

(d) After determining a need, a county board of supervisors may also place one or more limitations on the services to be provided by a driving-under-the-influence program or the area the program may operate within the county, when it initially recommends a program to the department pursuant to subdivision (a).

(1) For purposes of this subdivision, a board of supervisors may restrict a program for those convicted of a first driving-under-the-influence offense to providing only a three-month program, or may restrict a program to those convicted of a second or subsequent driving-under-the-influence offense to providing only an 18-month program, as a condition of its recommendation.

(2) A board of supervisors may not place restrictions on a program that would violate a statute or regulation.

(3) When recommending a program, if a board of supervisors fails to place any limitation on a program pursuant to this subdivision, the department may license that program to provide any driving-under-the-influence program services that are allowed by law within that county.

(4) This subdivision is intended to apply only to the initial recommendation to the department for licensure of a program by the county. It is not intended to affect a license that has been previously issued by the department or the renewal of a license for a driving-under-the-influence program. In counties where a contract or other written agreement is currently in effect between the county and a licensed driving-under-the-influence program operating in that county, this subdivision is not intended to alter the terms of that relationship or the renewal of that relationship.

(e) (1) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and Section 11835, the department, without taking any further regulatory action, shall implement, interpret, or make specific this section for the purpose of alcohol or drug recovery services provided in virtual settings by means of all-county letters, plan letters, information notices, or similar instructions, until regulations are promulgated or amended in accordance with paragraph (2).

(2) On or before January 1, 2026, the department shall promulgate regulations, in accordance with Section 11835, governing the provision of alcohol or drug recovery services pursuant to this section in virtual settings.

(Amended by Stats. 2023, Ch. 42, Sec. 38. (AB 118) Effective July 10, 2023.)

11836.10. No person, firm, partnership, association, corporation, or local governmental entity shall operate, establish, manage, conduct, or maintain a driving-under-the-influence program in this state without a current and valid license issued pursuant to this chapter.

(Amended by Stats. 1993, Ch. 1244, Sec. 4. Effective January 1, 1994.)

11836.11. The department shall require license renewal on a biennial basis.

(Added by Stats. 1988, Ch. 1219, Sec. 3.)

11836.12. Criteria for licensure of new or existing programs shall include all of the following:

- (a) Completion of a written application containing necessary and pertinent information describing the applicant program.
- (b) Demonstration by the applicant that it possesses adequate administrative, fiscal, and operational capability to operate a driving-under-the-influence program.
- (c) Onsite review of the program by department staff determines that the program is clean, safe, free of alcohol or illegal drug use, and that the program adheres to applicable statutes and regulations.
- (d) The program has paid all licensing fees.

(Amended by Stats. 2024, Ch. 847, Sec. 62. (AB 2995) Effective January 1, 2025.)

11836.14. An initial license shall not be issued until all requirements identified in this chapter and in regulations adopted pursuant to this chapter have been met.

(Added by Stats. 1988, Ch. 1219, Sec. 5.)

11836.15. The department shall adopt regulations to implement this chapter, in accordance with the purposes and process required in Section 11835, which shall include, but not be limited to, the following:

- (a) Application requirements.
- (b) Service requirements.
- (c) Reporting requirements.
- (d) Required staff qualifications.
- (e) Management and documentation of participant records.
- (f) Licensure fee assessment and collection procedures.

(Added by Stats. 1988, Ch. 1219, Sec. 6.)

11836.16. The State Department of Health Care Services shall adopt regulations for satellite offices of driving-under-the-influence programs. The regulations shall include, but not be limited to, any limitations on where a satellite office may be located and the minimum and maximum number of clients to whom a satellite office may provide services. When adopting regulations pursuant to

this section, the department shall also consider an appropriate licensing procedure for these offices. For purposes of this section, a "satellite office" is an offsite location of an existing licensed driving-under-the-influence program.

(Amended by Stats. 2013, Ch. 22, Sec. 45. (AB 75) Effective June 27, 2013. Operative July 1, 2013, by Sec. 110 of Ch. 22.)

11837. (a) Pursuant to the provisions of law relating to suspension of a person's privilege to operate a motor vehicle upon conviction for driving while under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and any drug, as set forth in paragraph (3) of subdivision (a) of Section 13352 of the Vehicle Code, the Department of Motor Vehicles shall restrict the driving privilege pursuant to Section 13352.5 of the Vehicle Code, if the person convicted of that offense participates for at least 18 months in a driving-under-the-influence program that is licensed pursuant to this chapter.

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

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

(2) Notwithstanding any other provision of law, in granting probation to a first offender described in this subdivision whose concentration of alcohol in the person's blood was 0.20 percent or more, by weight, or the person refused to take a chemical test, the court shall order the person to participate, for at least nine months or longer, as ordered by the court, in a licensed program that consists of at least 60 hours of program activities, including those education, group counseling, and individual interview sessions described in this chapter.

(d) (1) The State Department of Health Care Services may specify in regulations the activities required to be provided in the treatment of participants receiving nine months of licensed program services under Section 23538 or 23556 of the Vehicle Code.

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

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

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

(Amended by Stats. 2013, Ch. 22, Sec. 46. (AB 75) Effective June 27, 2013. Operative July 1, 2013, by Sec. 110 of Ch. 22.)

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

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

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

(Amended (as amended by Stats. 1998, Ch. 756) by Stats. 1999, Ch. 22, Sec. 2. Effective May 26, 1999. Operative July 1, 1999, by Sec. 46 of Ch. 22.)

11837.2. (a) (1) The court may refer persons only to licensed programs. Subject to these provisions, a person is eligible to participate in the program if the program is operating in any of the following:

(A) The county where the person is convicted.

(B) The county where the person resides.

(C) A county that has an agreement with the person's county of residence pursuant to Section 11838.

(D) A county to which a person may request transfer pursuant to subdivision (d).

(2) If a person granted probation under Section 23542 or 23562 of the Vehicle Code cannot be referred to a licensed 18-month program pursuant to this section, Section 13352.5 of the Vehicle Code does not apply.

(b) If a person has consented to participate in a licensed program and the county where the person is convicted is the same county in which the person resides, the court may order the person to participate in a licensed program within that county, or, if that county does not have a licensed program, the court may order that person to participate in a licensed program within another county, pursuant to Section 11838.

(c) If a person has consented to participate in a licensed program in the county in which that person resides or in a county in which the person's county of residence has an agreement pursuant to Section 11838, and the county where the person is convicted is not the county where the person resides, and if the court grants the person summary probation, the court may order the person to participate in a licensed program in that county. In lieu of summary probation, the court may utilize the probation officer to implement the orders of the court. If the county in which the person resides does not have a licensed program or an agreement with another county pursuant to Section 11838 and the person consents, the court may order the person to participate in a licensed program within the county where that person is convicted or in a county with which the county has an agreement pursuant to Section 11838.

(d) Except as otherwise provided in subdivision (e), subsequent to a person's commencement of participation in a program, the person may request transfer to another licensed program (1) in the same county in which the person has commenced participation in the program, upon approval of that county's alcohol and drug program administrator, or (2) in a county other than the county in which the person has commenced participation in the program, upon approval of the alcohol and drug program administrator of the county in which the person is participating and the county to which the person is requesting transfer.

(e) Subdivision (d) does not apply (1) if the court has ordered the person to participate in a specific licensed program, unless the court orders the transfer or, (2) if the person is under formal probation, unless the probation officer consents to the transfer. The department shall establish reporting forms and procedures to ensure that the court receives notice of any program transfer pursuant to this subdivision or subdivision (d).

(f) Jurisdiction of all postconviction matters arising pursuant to this section may be retained by the court of conviction.

(g) The department, in cooperation with the Department of Motor Vehicles and the county alcohol and drug program administrators, shall establish procedures to ensure the effective implementation of this section.

(Amended by Stats. 2004, Ch. 862, Sec. 106. Effective January 1, 2005.)

11837.3. (a) (1) Each county, through the county alcohol and drug program administrator, shall determine its ability to establish, through public or private resources, a program of alcohol and other drug education and counseling services for a person whose license to drive has been administratively suspended or revoked for, or who is convicted of, a first violation of Section 23152 or 23153 of the Vehicle Code, or who is convicted of a violation of subdivision (b), (c), (d), or (e) of Section 655 of, or Section 655.4 of, the Harbors and Navigation Code, pursuant to subdivisions (e) and (f) of Section 668 of the Harbors and Navigation Code. The program shall be self-supporting through fees collected from program participants. The program shall be of at least three months' duration and consist of at least 30 hours of direct education and counseling services. The program shall be authorized by each county and licensed by, and operated under general regulations established by, the department.

(2) (A) A county that shows the department that it has insufficient resources, insufficient potential program participants, or other material disadvantages is not required to establish a program.

(B) The department may license an alcohol and other drug education program that is less than 30 hours in length in any county where the board of supervisors has provided the showing pursuant to subparagraph (A), and the department has upheld that showing. The shorter program is subject to all other applicable regulations developed by the department pursuant to paragraph (3) of subdivision (b) of Section 11837.4.

(b) Each county that has approved an alcohol and other drug education program or programs and that is licensed by the department shall make provision for persons who can document current inability to pay the program fee, in order to enable those persons to participate. The county shall require that the program report the failure of a person referred to the program to enroll in the program to the referring court.

(c) In order to assure effectiveness of the alcohol and other drug education and counseling program, the county shall provide, as appropriate, services to ethnic minorities, women, youth, or any other group that has particular needs related to the program.

(d) (1) Any person required to successfully complete an alcohol and other drug education and counseling program as a condition of probation shall enroll in the program and, except when enrollment is required in a program that is required to report failures to enroll to the court, shall furnish proof of the enrollment to the court within the period of time and in the manner specified by the court. The person also shall participate in and successfully complete the program, and shall furnish proof of successful completion within the period of time and in the manner specified by the court.

(2) An alcohol and other drug education and counseling program shall report to the court, within the period of time and in the manner specified by the court, the name of any person who fails to successfully complete the program.

(Amended by Stats. 2004, Ch. 862, Sec. 107. Effective January 1, 2005.)

11837.4. (a) No program, regardless of how it is funded, may be licensed unless all of the requirements of this chapter and of the regulations adopted pursuant to this chapter have been met.

(b) Each licensed program shall include, but not be limited to, the following:

(1) For the alcohol or drug education and counseling services programs specified in subdivision (b) of Section 11837, each program shall provide for close and regular face-to-face interviews. For the 18-month programs specified in subdivision (a) of Section 11837, each program shall provide for close and regular supervision of the person, including face-to-face interviews at least once every other calendar week, regarding the person's progress in the program for the first 12 months of the program and shall provide only community reentry supervision during the final six months of the program. In the last six months of the 18-month program, the provider shall monitor the participant's community reentry activity with self-help groups, employment, family, and other areas of self-improvement. Unless otherwise ordered by the court, the provider's monitoring services are limited to not more than six hours. For the 30-month programs specified in subdivision (b) of Section 23548, subdivision (b) of Section 23552, and subdivision (b) of Section 23568 of the Vehicle Code, each program shall provide for close and regular supervision of the person, including regular, scheduled face-to-face interviews over the course of 30 months regarding the person's progress in the program and recovery from problem drinking, alcoholism, chemical dependency, or polydrug abuse, as prescribed by regulations of the department. The interviews in any of those programs shall be conducted individually with each person being supervised and shall occur at times other than when the person is participating in any group or other activities of the program. No program activity in which the person is participating shall be interrupted in order to conduct the individual interviews.

(2) (A) The department shall approve all fee schedules for the programs and shall require that each program be self-supporting from the participants' fees and that each program provide for the payment of the costs of the program by participants at times and in amounts commensurate with their ability to pay in order to enable these persons to participate. Each program shall make provisions for persons who can successfully document current inability to pay the fees. Only the department may establish the criteria and procedures for determining a participant's ability to pay. The department shall ensure that the fees are set at amounts that will enable programs to provide adequately for the immediate and long-term continuation of services required pursuant to this chapter. The fees shall be used only for the purposes set forth in this chapter, except that any profit or surplus that does not exceed the maximum level established by the department may be utilized for any purposes allowable under any other provisions of law. In its regulations, the department shall define, for the purposes of this paragraph, taking into account prudent accounting, management, and business practices and procedures, the terms "profits" and "surplus." The department shall fairly construe these provisions so as not to jeopardize fiscal integrity of the programs. The department may not license any program if the department finds that any element of the administration of the program does not assure the fiscal integrity of the program.

(B) Each program licensed by the department under this section may request an increase in the fees. The request for an increase shall initially be sent to the county alcohol and drug program administrator. The county alcohol and drug program administrator shall, within 30 days of receiving the request, forward it to the department with the administrator's recommendation that the fee increase be approved or disapproved.

(C) The administrator's recommendation shall, among other things, take into account the rationale that the program has provided to the administrator for the increase and whether that increase would exceed the profit or surplus limit established by the department.

(D) If the county alcohol and drug program administrator fails to forward the request to the department within the 30 days, the program may send the request directly to the department. In this instance, the department may act without the administrator's recommendation.

(E) The department shall, within 30 days of receiving the request pursuant to subparagraph (B) or (D) approve or disapprove the request. In making its decision, the department shall consider the matters described in subparagraph (C).

(3) The licensed programs described in paragraph (1) shall include a variety of treatment services for problem drinkers, alcoholics, chemical dependents, and polydrug abusers or shall have the capability of referring the persons to, and regularly and closely supervising the persons while in, any appropriate medical, hospital, or licensed residential treatment services or self-help groups for their problem drinking, alcoholism, chemical dependency, or polydrug abuse problem. In addition to the requirements of paragraph (1), the department shall prescribe in its regulations what other services the program shall provide, at a minimum, in the treatment of participants, which services may include lectures, classes, group discussions, group counseling, or individual counseling in addition to the interviews required by paragraph (1), or any combination thereof. However, any group discussion or counseling activity, other than classes or lectures, shall be regularly scheduled to consist of not more than 15 persons, except that they may, on an emergency basis, exceed 15, but not more than 17, persons, at any one meeting. At no time shall there be more than 17 persons in attendance at any one meeting. For the 30-month programs specified in subdivision (b) of Section 23548, subdivision (b) of Section 23552, and subdivision (b) of Section 23568 of the Vehicle Code, each licensed program shall include a method by which each participant shall maintain a compendium of probative evidence, as prescribed in the regulations of the department, on a trimonthly basis demonstrating a performance of voluntary community service by the participant, including, but not limited to, the prevention of drinking and driving, the promotion of safe driving, and responsible attitudes toward the use of chemicals of any kind, for not less than 120 hours and not more than 300 hours, as determined by the court, with one-half of that time to be served during the initial 18 months of program participation and one-half of that time to be served in the final 12 months. In determining whether or not the participant has met the objectives of the program, the compendium of evidence shall also include, and the court shall consider, the participant's demonstration of significant improvement in any of the following areas of personal achievement:

(A) Significant improvement in occupational performance, including efforts to obtain gainful employment.

(B) Significant improvement in physical and mental health.

(C) Significant improvement in family relations, including financial obligations.

(D) Significant improvement in financial affairs and economic stability.

The compendium of evidence shall be maintained by the participant for review by the program, court, probation officer, or other appropriate governmental agency. The program officials, unless prohibited by the referring court, shall make provisions for a participant to voluntarily enter, using the participant's own resources, a licensed chemical dependency recovery hospital or residential treatment program which has a valid license issued by the State of California to provide alcohol or drug services, and to receive three weeks of program participation credit for each week of that treatment, not to exceed 12 weeks of program participation credit, but only if the treatment is at least two weeks in duration. The program shall document probative evidence of this hospital or residential care treatment in the participant's program file.

(4) In order to assure program effectiveness, the department shall require, whenever appropriate, that the licensed program provides services to ethnic minorities, women, youth, or any other group that has particular needs relating to the program.

(5) The goal of each program shall be to assist persons participating in the program to recognize their chemical dependency and to assist them in their recovery.

(6) Each program shall establish a method by which the court, the Department of Motor Vehicles, and the person are notified in a timely manner of the person's failure to comply with the program's rules and regulations.

(c) No program may be licensed unless the county complies with the requirements of subdivision (b) of Section 11812. The provider of a program that offers an alcohol or drug education and counseling services program, an 18-month program, or a 30-month program or any or all of those programs described in this section shall be required to obtain only one license. The department's regulations shall specify the requirements for the establishment of each program. The license issued by the department shall identify the program or programs licensed to operate.

(d) (1) Departmental approval for the establishment of a 30-month program by a licensed 18-month program is contingent upon approval by the county alcohol and drug program administrator, based upon confirmation that the program applicant is capable of

providing the service and that the fiscal integrity of the program applicant will not be jeopardized by the operation of the program.

(2) The court shall refer a person to a 30-month treatment program only if a 30-month program exists or is provided for in the jurisdiction of the court.

(e) A county or program shall not prescribe additional program requirements unless the requirements are specifically approved by the department.

(f) The department may license a program on a provisional basis.

(Amended by Stats. 2004, Ch. 862, Sec. 108. Effective January 1, 2005.)

11837.5. (a) No person may participate in any program that has not been licensed by the department pursuant to this chapter.

(b) The department shall charge reasonable fees for licensing driving-under-the-influence programs. The department shall set the fees in an amount sufficient to cover all administrative costs incurred by the department and to reimburse the Department of Motor Vehicles for the costs of the evaluation and report required by Section 9 of Senate Bill 1344 of the 1989–90 Regular Session.

(c) The department may fine a provider who is delinquent in the payment of licensing fees. The department shall deposit fines collected from delinquent providers in the Driving-Under-the-Influence Program Licensing Trust Fund, and the revenues from the fines shall be used, upon appropriation, to offset costs incurred by the department in the administration of the program and to reimburse the Department of Motor Vehicles for the costs of the evaluation and report required by Section 9 of Senate Bill 1344 of the 1989–90 Regular Session.

(d) If a program fails to pay licensing fees or assessed fines, the department may deny an initial license or revoke an existing license.

(e) There is established in the State Treasury a Driving-Under-the-Influence Program Licensing Trust Fund. All fees, fines, and penalties collected from driving-under-the-influence programs shall be deposited in this fund. The money in the fund shall be available when appropriated by the Legislature.

(f) The department shall prepare a report on the assets, liabilities, and balance in the Driving-Under-the-Influence Program Licensing Trust Fund when the department increases program licensing fees. The report shall also include an itemized statement of income and expenses for the trust fund since the last report. The department shall submit the report to the Legislature and shall furnish a copy of the report, upon request, to any provider of a driving-under-the-influence program.

(g) Licensing fees shall be evaluated annually and based on the department's projected costs for the forthcoming fiscal year. Any excess fees remaining in the Driving-Under-the-Influence Program Licensing Trust Fund at the close of the fiscal year shall be carried forward and taken into consideration in establishment of fees for the subsequent fiscal year. If the department proposes to increase the licensing fees, the department shall justify the increase to the Legislature by showing that sufficient assets are not currently available in the Driving-Under-the-Influence Program Licensing Trust Fund and that current licensing fee collections are not sufficient to support current or planned expenses of the department for driving-under-the-influence program licensing activities.

(h) Licensing fee collection procedures, which include the assessment of fines for delinquent fee payments, shall be defined in regulations adopted pursuant to this chapter.

(Amended by Stats. 1993, Ch. 1244, Sec. 8. Effective January 1, 1994.)

11837.6. (a) The major responsibility for assuring programmatic and fiscal integrity of each program rests with the county alcohol and drug program administrator of each county utilizing a program pursuant to this chapter.

(b) The county alcohol and drug program administrator shall assure, through monitoring at least once every six months, compliance with the applicable statutes and regulations by any licensed program within the county's jurisdiction. Whenever possible, the county monitoring shall coincide with the state licensing reviews. The county alcohol and drug program administrator shall prepare and submit, to the department and the program provider, an annual written report of findings regarding the program's compliance with applicable statutes and regulations.

(c) The county alcohol and drug program administrator shall submit a description of each licensed program as part of the county plan.

(d) The county alcohol and drug program administrator shall notify the department, within 30 days of the date that a program's license is denied, suspended or revoked, of the individuals who failed to commence participation in another licensed program within 21 days of the license denial, suspension or revocation.

(Amended by Stats. 2004, Ch. 862, Sec. 109. Effective January 1, 2005.)

11837.7. (a) The county alcohol and drug program administrator, or the advisory board acting through the county alcohol and drug program administrator, shall inform the board of supervisors immediately if it is determined that any program is not meeting the

regulations adopted by the department. The department shall be notified in writing by the county alcohol and drug program administrator of any program that is not in compliance with applicable statutes and regulations.

(b) The department, the county alcohol and drug program administrator, the chief probation officer, or their authorized representatives may enter, in a nondisruptive manner, any class, lecture, group discussion, or any other program element to observe these activities.

(c) Notwithstanding subdivision (a) of Section 11837.6, the department may audit, or contract for the auditing of, any licensed program.

(Amended by Stats. 2004, Ch. 862, Sec. 110. Effective January 1, 2005.)

11837.8. (a) The department shall authorize each county alcohol and drug program administrator to retain, in an amount not in excess of that specified by the department, a portion of the fees charged for participation in the program that is sufficient to reimburse the county for the costs and expenses that the administrator reasonably incurs in discharging his or her duties pursuant to this chapter.

(b) A county may not use for any purpose set forth in this chapter any funds allocated to it by the department pursuant to Division 10.5 (commencing with Section 11750). The board of supervisors may authorize the use of any other funds for any purpose set forth in this chapter.

(c) Notwithstanding subdivision (b), a county with a population of 20,000 or less may utilize funds allocated by the department to establish and administer a program if the department finds that the county cannot establish a self-supporting program at reasonable cost or is unable to establish jointly a program with another county. If an exception is granted, reasonable effort shall be made by the county to observe the intent of subdivision (b) that programs be self-supporting.

(Amended by Stats. 2004, Ch. 862, Sec. 111. Effective January 1, 2005.)

11837.9. The participation of the probation department in a program established pursuant to this chapter shall be described in the amendment to the county plan.

(Amended by Stats. 2004, Ch. 862, Sec. 112. Effective January 1, 2005.)

11838. (a) The Legislature encourages all counties to utilize the procedure described in this chapter, but recognizes that it is not feasible for every county to establish its own programs. Accordingly, two or more counties may jointly establish programs pursuant to Section 11796 of this code or Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code or may furnish by contract the program services to residents of another county pursuant to Section 11796 of this code. The board of supervisors of the county in which the program is located shall be responsible for assuring the integrity of the program as required pursuant to subdivision (a) of Section 11837.6.

(b) For the purpose of determining a person's eligibility to participate in an approved program where the person's county of residence establishes a program with another county or contracts for services pursuant to subdivision (a), the following eligibility requirements shall apply:

(1) Where two or more counties jointly establish a program pursuant to Section 11796 of this code or Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, subdivision (b) of Section 11838.2 shall apply.

(2) Where a county contracts for program services from another county, only those residents alleged to have committed a violation of Section 23152 or 23153 of the Vehicle Code on or after the date their county of residence executes a contract pursuant to subdivision (a) to provide program services to their residents shall be eligible to participate in such approved program pursuant to Section 11837.2.

Counties which contract for services pursuant to subdivision (a) of this section shall notify the department not later than 14 days following such action.

(Amended by Stats. 1982, Ch. 53, Sec. 5. Effective February 18, 1982.)

11838.1. The department, in cooperation with the county and the Department of Motor Vehicles, shall establish uniform statewide reporting procedures and forms for the submission of any appropriate documents or information from boards of supervisors, administrators of programs, county alcohol and drug program administrators, and program participants to assure effective implementation of this chapter.

(Amended by Stats. 2004, Ch. 862, Sec. 113. Effective January 1, 2005.)

11838.3. (a) The director may bring an action to enjoin any violation of Section 11836.10 in the superior court in and for the county in which the violation occurred. Any proceeding under the provisions of this section shall conform to the requirements of Chapter 3

(commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the director shall not be required to allege facts necessary to show or tending to show lack of adequate remedy at law or irreparable damage or loss.

(b) With respect to any and all actions brought pursuant to this section alleging actual violation of Section 11836.10 the court shall, if it finds the allegations to be true, issue its order enjoining the program from continuance of the violation.

(Added by Stats. 1988, Ch. 1219, Sec. 16.)

11838.4. (a) Notwithstanding any other provision of this chapter, any person who violates Section 11836.10 may be assessed by the department an immediate civil penalty in the amount of two hundred dollars (\$200) per day of the violation. The civil penalty shall be imposed if an unlicensed program is operated and the operator refuses to seek licensure or the operator's licensure application is denied and the operator continues to operate the unlicensed program.

(b) In addition to suspension or revocation of a license issued under this chapter, the department may levy a civil penalty against any program provider who is not in compliance with statutes and regulations.

(1) The amount of the civil penalty shall not be less than twenty-five dollars (\$25) or more than fifty dollars (\$50) per day for each violation of this chapter except where the nature or seriousness of the violation or the frequency of the violation warrants a higher penalty or an immediate civil penalty assessment, or both, as determined by the department. In no event, shall the civil penalty assessment for noncompliance exceed one hundred fifty dollars (\$150) per day, or a total of five thousand dollars (\$5,000).

(2) Prior to the assessment of any civil penalty other than a civil penalty specified in paragraph (1) or (3), the program provider shall have a minimum of 30 days to correct the deficiency.

(3) Any program provider that is cited for repeating the same violation of this chapter within a 12-month period is subject to an immediate civil penalty of one hundred fifty dollars (\$150) and fifty dollars (\$50) for each day the violation continues until the deficiency is corrected. In no event shall the total fine exceed five thousand dollars (\$5,000).

(4) The suspension, revocation, forfeiture, or surrender of a license issued by the department shall not deprive the department of its authority to institute or continue a disciplinary proceeding against a licensee upon any grounds provided for in law or to enter and order suspending or revoking the license or otherwise taking disciplinary action against the licensee.

(c) An operator may appeal the assessment to the director, and if the matter is unresolved at that stage, the operator may appeal the director's decision in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(Amended by Stats. 1993, Ch. 589, Sec. 92. Effective January 1, 1994.)

11838.5. The civil, criminal, and administrative remedies available to the department pursuant to this article are not exclusive, and may be sought and employed in any combination deemed advisable by the department to enforce this chapter.

(Added by Stats. 1988, Ch. 1219, Sec. 18.)

11838.10. The director may suspend or revoke any license issued under this chapter, or deny an application to renew a license or to modify the terms and conditions of a license, upon any of the following grounds and in the manner provided in this chapter:

- (a) Violation by the licensee of this chapter or regulations adopted pursuant to this chapter.
- (b) Repeated violation by the licensee of this chapter or regulations adopted pursuant to this chapter.
- (c) Aiding, abetting, or permitting the violation of, or any repeated violation of, subdivisions (a) and (b).
- (d) Continued program operations jeopardize the health and welfare of participants or the public.
- (e) Misrepresentation of any material fact in obtaining a multiple offender program license.

(Added by Stats. 1988, Ch. 1219, Sec. 19.)

11838.11. (a) Proceedings for the suspension, revocation, or denial of a license under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted by these provisions. In the event of conflict between this chapter and the Government Code, the Government Code shall prevail.

(b) In all proceedings conducted in accordance with this section, the standard of proof to be applied shall be by the preponderance of the evidence.

(Added by Stats. 1988, Ch. 1219, Sec. 20.)

