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## SB-485 Driving privilege: suspension or delay. (2019-2020)

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### Senate Bill No. 485

#### CHAPTER 505

An act to amend Sections 25658, 25658.4, 25658.5, 25661, and 25662 of the Business and Professions Code, to amend Sections 529.5 and 647 of the Penal Code, and to amend Sections 1808, 13202.5, and 23224 of, and to repeal Sections 13201.5, 13202, 13202.4, and 13202.6 of, the Vehicle Code, relating to driving privilege.

[ Approved by Governor October 03, 2019. Filed with Secretary of State October 03, 2019. ]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 485, Beall. Driving privilege: suspension or delay.

Existing law authorizes or requires the court to suspend or delay the driving privilege, or to order the Department of Motor Vehicles to suspend or delay the driving privilege, of a person who is convicted of any of certain offenses, including, among others, offenses relating to vandalism, controlled substance or alcohol use, possession, or related conduct, or firearm use.

Existing law authorizes the court to suspend the driving privilege of a person, for not more than 30 days, upon conviction of soliciting or engaging in prostitution or specified lewd or dissolute conduct, if the violation was committed within 1,000 feet of a private residence and with the use of a vehicle. Existing law authorizes the court, as an alternative, to order a person's driving privilege restricted, for not more than 6 months, to necessary travel to and from the person's place of employment or education.

This bill would repeal the court's authority to suspend or delay the driving privilege, or to order the department to suspend or delay the driving privilege, of a person based on a conviction of one of the above-specified offenses. The bill would make other conforming changes.

The bill would state that its provisions are not intended to affect any order issued by the court before January 1, 2020, to suspend, delay, or otherwise restrict the driving privilege of a person, or any action taken by the department, whether before, on, or after January 1, 2020, pursuant to an order issued by the court before January 1, 2020, to suspend, delay, or otherwise restrict the driving privilege of a person.

This bill would incorporate additional changes to Section 647 of the Penal Code proposed by AB 1129, to be operative only if this bill and AB 1129 are enacted and this bill is enacted last.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

#### THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 25658 of the Business and Professions Code is amended to read:

**25658.** (a) Except as otherwise provided in subdivision (c), every person who sells, furnishes, gives, or causes to be sold, furnished, or given away any alcoholic beverage to any person under 21 years of age is guilty of a misdemeanor.

(b) Except as provided in Section 25667 or 25668, any person under 21 years of age who purchases any alcoholic beverage, or any person under 21 years of age who consumes any alcoholic beverage in any on-sale premises, is guilty of a misdemeanor.

(c) Any person who violates subdivision (a) by purchasing any alcoholic beverage for, or furnishing, giving, or giving away any alcoholic beverage to, a person under 21 years of age, and the person under 21 years of age thereafter consumes the alcohol and thereby proximately causes great bodily injury or death to themselves or any other person, is guilty of a misdemeanor.

(d) Any on-sale licensee who knowingly permits a person under 21 years of age to consume any alcoholic beverage in the on-sale premises, whether or not the licensee has knowledge that the person is under 21 years of age, is guilty of a misdemeanor.

(e) (1) Except as otherwise provided in paragraph (2) or (3), or Section 25667 or 25668, any person who violates this section shall be punished by a fine of two hundred fifty dollars (\$250), no part of which shall be suspended, or the person shall be required to perform not less than 24 hours or more than 32 hours of community service during hours when the person is not employed and is not attending school, or a combination of a fine and community service as determined by the court. A second or subsequent violation of subdivision (b), where prosecution of the previous violation was not barred pursuant to Section 25667 or 25668, shall be punished by a fine of not more than five hundred dollars (\$500), or the person shall be required to perform not less than 36 hours or more than 48 hours of community service during hours when the person is not employed and is not attending school, or a combination of a fine and community service as determined by the court. It is the intent of the Legislature that the community service requirements prescribed in this section require service at an alcohol or drug treatment program or facility or at a county coroner's office, if available, in the area where the violation occurred or where the person resides.

(2) Except as provided in paragraph (3), any person who violates subdivision (a) by furnishing an alcoholic beverage, or causing an alcoholic beverage to be furnished, to a minor shall be punished by a fine of one thousand dollars (\$1,000), no part of which shall be suspended, and the person shall be required to perform not less than 24 hours of community service during hours when the person is not employed and is not attending school.

(3) Any person who violates subdivision (c) shall be punished by imprisonment in a county jail for a minimum term of six months not to exceed one year, by a fine of one thousand dollars (\$1,000), or by both imprisonment and fine.

(f) Persons under 21 years of age may be used by peace officers in the enforcement of this section to apprehend licensees, or employees or agents of licensees, or other persons who sell or furnish alcoholic beverages to minors. Notwithstanding subdivision (b), any person under 21 years of age who purchases or attempts to purchase any alcoholic beverage while under the direction of a peace officer is immune from prosecution for that purchase or attempt to purchase an alcoholic beverage. Guidelines with respect to the use of persons under 21 years of age as decoys shall be adopted and published by the department in accordance with the rulemaking portion of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). Law enforcement-initiated minor decoy programs in operation prior to the effective date of regulatory guidelines adopted by the department shall be authorized as long as the minor decoy displays to the seller of alcoholic beverages the appearance of a person under 21 years of age. This subdivision shall not be construed to prevent the department from taking disciplinary action against a licensee who sells alcoholic beverages to a minor decoy prior to the department's final adoption of regulatory guidelines. After the completion of every minor decoy program performed under this subdivision, the law enforcement agency using the decoy shall notify licensees within 72 hours of the results of the program. When the use of a minor decoy results in the issuance of a citation, the notification required shall be given to licensees and the department within 72 hours of the issuance of the citation. A law enforcement agency may comply with this requirement by leaving a written notice at the licensed premises addressed to the licensee, or by mailing a notice addressed to the licensee.

(g) The penalties imposed by this section do not preclude prosecution or the imposition of penalties under any other provision of law, including, but not limited to, Section 272 of the Penal Code.

**SEC. 2.** Section 25658.4 of the Business and Professions Code is amended to read:

**25658.4.** (a) No clerk shall make an off sale of alcoholic beverages unless the clerk executes under penalty of perjury on the first day of that sale an application and acknowledgment. The application and acknowledgment shall be in a form understandable to the clerk.

(1) The department shall specify the form of the application and acknowledgment, which shall include at a minimum a summary of this division pertaining to the following:

(A) The prohibitions contained in Sections 25658 and 25658.5 pertaining to the sale to, and purchase of, alcoholic beverages by persons under 21 years of age.

(B) Bona fide evidence of majority as provided in Section 25660.

(C) Hours of operation as provided in Article 2 (commencing with Section 25631).

(D) The prohibitions contained in subdivision (a) of Section 25602 and Section 25602.1 pertaining to sales to an intoxicated person.

(E) Sections 23393 and 23394 as they pertain to on-premises consumption of alcoholic beverages in an off-sale premises.

(F) The requirements and prohibitions contained in Section 25659.5 pertaining to sales of keg beer for consumption off licensed premises.

(2) The application and acknowledgment shall also include a statement that the clerk has read and understands the summary, a statement that the clerk has never been convicted of violating this division or, if convicted, an explanation of the circumstances of each conviction, and a statement that the application and acknowledgment is executed under penalty of perjury.

(3) The licensee shall keep the executed application and acknowledgment on the premises at all times and available for inspection by the department. A licensee with more than one licensed off-sale premises in the state may comply with this subdivision by maintaining an executed application and acknowledgment at a designated licensed premises, regional office, or headquarters office in the state. An executed application and acknowledgment maintained at the designated locations shall be valid for all licensed off-sale premises owned by the licensee. Any licensee maintaining an application and acknowledgment at a designated site other than the individual licensed off-sale premises shall notify the department in advance and in writing of the site where the application and acknowledgment shall be maintained and available for inspection. A licensee electing to maintain an application and acknowledgments at a designated site other than the licensed premises shall maintain at each licensed premises a notice of where the executed application and acknowledgments are located. Any licensee with more than one licensed off-sale premises who elects to maintain the application and acknowledgments at a designated site other than each licensed premises shall provide the department, upon written demand, a copy of any employee's executed application and acknowledgment within 10 business days. A violation of this subdivision by a licensee constitutes grounds for discipline by the department.

(b) The licensee shall post a notice that contains and describes, in concise terms, prohibited sales of alcoholic beverages, a statement that the off-sale seller will refuse to make a sale if the seller reasonably suspects that the Alcoholic Beverage Control Act may be violated. The notice shall be posted at an entrance or at a point of sale in the licensed premises or in any other location that is visible to purchasers of alcoholic beverages and to the off-sale seller.

(c) A retail licensee shall post a notice that contains and describes, in concise terms, the fines and penalties for any violation of Section 25658, relating to the sale of alcoholic beverages to, or the purchase of alcoholic beverages by, any person under 21 years of age.

(d) Nonprofit organizations or licensees may obtain video recordings and other training materials from the department on the Licensee Education on Alcohol and Drugs (LEAD) program. The video recordings and training materials may be updated periodically and may be provided in English and other languages, and when made available by the department, shall be provided at cost.

(e) As used in this section:

(1) "Off-sale seller" means any person holding a retail off-sale license issued by the department and any person employed by that licensee who in the course of that employment sells alcoholic beverages.

(2) "Clerk" means an off-sale seller who is not a licensee.

(f) The department may adopt rules and appropriate fees for licensees that it determines necessary for the administration of this section.

**SEC. 3.** Section 25658.5 of the Business and Professions Code is amended to read:

**25658.5.** (a) Any person under 21 years of age who attempts to purchase any alcoholic beverage from a licensee, or the licensee's agent or employee, is guilty of an infraction and shall be punished by a fine of not more than two hundred fifty dollars (\$250), or the person shall be required to perform not less than 24 hours or more than 32 hours of community service during hours when the person is not employed or is not attending school, or a combination of fine and community service as determined by the court. A second or subsequent violation of this section shall be punished by a fine of not more than five hundred dollars (\$500), or the person shall be required to perform not less than 36 hours or more than 48 hours of community service during hours when the person is not employed or is not attending school, or a combination of fine and community service, as the court deems just. It is the intent of the Legislature that the community service requirements prescribed in this section require service at

an alcohol or drug treatment program or facility or at a county coroner's office, if available, in the area where the violation occurred or where the person resides.

(b) The penalties imposed by this section do not preclude prosecution or the imposition of penalties under any other provision of law.

**SEC. 4.** Section 25661 of the Business and Professions Code is amended to read:

**25661.** (a) Any person under 21 years of age who presents or offers to any licensee, or agent or employee of a licensee, any written, printed, or photostatic evidence of age and identity which is false, fraudulent or not actually their own for the purpose of ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure, the serving of any alcoholic beverage, or who possesses any false or fraudulent written, printed, or photostatic evidence of age and identity, is guilty of a misdemeanor and shall be punished by a fine of at least two hundred fifty dollars (\$250), no part of which shall be suspended; or the person shall be required to perform not less than 24 hours nor more than 32 hours of community service during hours when the person is not employed and is not attending school, or a combination of fine and community service as determined by the court. A second or subsequent violation of this section shall be punished by a fine of not more than five hundred dollars (\$500), or the person shall be required to perform not less than 36 hours or more than 48 hours of community service during hours when the person is not employed or is not attending school, or a combination of fine and community service, as the court deems just. It is the intent of the Legislature that the community service requirements prescribed in this section require service at an alcohol or drug treatment program or facility or at a county coroner's office, if available, in the area where the violation occurred or where the person resides.

(b) The penalties imposed by this section do not preclude prosecution or the imposition of penalties under any other provision of law.

**SEC. 5.** Section 25662 of the Business and Professions Code is amended to read:

**25662.** (a) Except as provided in Section 25667 or 25668, any person under 21 years of age who possesses any alcoholic beverage on any street or highway or in any public place or in any place open to the public is guilty of a misdemeanor and shall be punished by a fine of two hundred fifty dollars (\$250) or the person shall be required to perform not less than 24 hours or more than 32 hours of community service during hours when the person is not employed or is not attending school. A second or subsequent violation shall be punishable as a misdemeanor and the person shall be fined not more than five hundred dollars (\$500), or required to perform not less than 36 hours or more than 48 hours of community service during hours when the person is not employed or is not attending school, or a combination of fine and community service as the court deems just. It is the intent of the Legislature that the community service requirements prescribed in this section require service at an alcohol or drug treatment program or facility or at a county coroner's office, if available, in the area where the violation occurred or where the person resides. This section does not apply to possession by a person under 21 years of age making a delivery of an alcoholic beverage in pursuance of the order of a parent, responsible adult relative, or any other adult designated by the parent or legal guardian, or in pursuance of employment. That person shall have a complete defense if they were following, in a timely manner, the reasonable instructions of a parent, legal guardian, responsible adult relative, or adult designee relating to disposition of the alcoholic beverage.

(b) Unless otherwise provided by law, where a peace officer has lawfully entered the premises, the peace officer may seize any alcoholic beverage in plain view that is in the possession of, or provided to, a person under 21 years of age at social gatherings, when those gatherings are open to the public, 10 or more persons under 21 years of age are participating, persons under 21 years of age are consuming alcoholic beverages, and there is no supervision of the social gathering by a parent or guardian of one or more of the participants.

Where a peace officer has seized alcoholic beverages pursuant to this subdivision, the officer may destroy any alcoholic beverage contained in an opened container and in the possession of, or provided to, a person under 21 years of age, and, with respect to alcoholic beverages in unopened containers, the officer shall impound those beverages for a period not to exceed seven working days pending a request for the release of those beverages by a person 21 years of age or older who is the lawful owner or resident of the property upon which the alcoholic beverages were seized. If no one requests release of the seized alcoholic beverages within that period, those beverages may be destroyed.

(c) The penalties imposed by this section do not preclude prosecution or the imposition of penalties under any other provision of law.

**SEC. 6.** Section 529.5 of the Penal Code is amended to read:

**529.5.** (a) Every person who manufactures, sells, offers for sale, or transfers any document, not amounting to counterfeit, purporting to be a government-issued identification card or driver's license, which by virtue of the wording or appearance thereon

could reasonably deceive an ordinary person into believing that it is issued by a government agency, and who knows that the document is not a government-issued document, is guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding one thousand dollars (\$1,000), or by both the fine and imprisonment.

(b) Any person who, having been convicted of a violation of subdivision (a), is subsequently convicted of a violation of subdivision (a), is punishable for the subsequent conviction by imprisonment in a county jail not exceeding one year, or by a fine not exceeding five thousand dollars (\$5,000), or by both the fine and imprisonment.

(c) Any person who possesses a document described in subdivision (a) and who knows that the document is not a government-issued document is guilty of a misdemeanor punishable by a fine of not less than one thousand dollars (\$1,000) and not more than two thousand five hundred dollars (\$2,500). The misdemeanor fine shall be imposed except in unusual cases where the interests of justice would be served. The court may allow an offender to work off the fine by doing community service. If community service work is not available, the misdemeanor shall be punishable by a fine of up to one thousand dollars (\$1,000), based on the person's ability to pay.

**SEC. 7.** Section 647 of the Penal Code is amended to read:

**647.** Except as provided in paragraph (5) of subdivision (b) and subdivision (k), every person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor:

(a) An individual who solicits anyone to engage in or who engages in lewd or dissolute conduct in any public place or in any place open to the public or exposed to public view.

(b) (1) An individual who solicits, or who agrees to engage in, or who engages in, any act of prostitution with the intent to receive compensation, money, or anything of value from another person. An individual agrees to engage in an act of prostitution when, with specific intent to so engage, the individual manifests an acceptance of an offer or solicitation by another person to so engage, regardless of whether the offer or solicitation was made by a person who also possessed the specific intent to engage in an act of prostitution.

(2) An individual who solicits, or who agrees to engage in, or who engages in, any act of prostitution with another person who is 18 years of age or older in exchange for the individual providing compensation, money, or anything of value to the other person. An individual agrees to engage in an act of prostitution when, with specific intent to so engage, the individual manifests an acceptance of an offer or solicitation by another person who is 18 years of age or older to so engage, regardless of whether the offer or solicitation was made by a person who also possessed the specific intent to engage in an act of prostitution.

(3) An individual who solicits, or who agrees to engage in, or who engages in, any act of prostitution with another person who is a minor in exchange for the individual providing compensation, money, or anything of value to the minor. An individual agrees to engage in an act of prostitution when, with specific intent to so engage, the individual manifests an acceptance of an offer or solicitation by someone who is a minor to so engage, regardless of whether the offer or solicitation was made by a minor who also possessed the specific intent to engage in an act of prostitution.

(4) A manifestation of acceptance of an offer or solicitation to engage in an act of prostitution does not constitute a violation of this subdivision unless some act, in addition to the manifestation of acceptance, is done within this state in furtherance of the commission of the act of prostitution by the person manifesting an acceptance of an offer or solicitation to engage in that act. As used in this subdivision, "prostitution" includes any lewd act between persons for money or other consideration.

(5) Notwithstanding paragraphs (1) to (3), inclusive, this subdivision does not apply to a child under 18 years of age who is alleged to have engaged in conduct to receive money or other consideration that would, if committed by an adult, violate this subdivision. A commercially exploited child under this paragraph may be adjudged a dependent child of the court pursuant to paragraph (2) of subdivision (b) of Section 300 of the Welfare and Institutions Code and may be taken into temporary custody pursuant to subdivision (a) of Section 305 of the Welfare and Institutions Code, if the conditions allowing temporary custody without warrant are met.

(c) Who accosts other persons in any public place or in any place open to the public for the purpose of begging or soliciting alms.

(d) Who loiters in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious or any unlawful act.

(e) Who lodges in any building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or in control of it.

(f) Who is found in any public place under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, controlled substance, or toluene, in a condition that the person is unable to exercise care for the person's own safety or the safety of others, or by reason of the person's being under the influence of intoxicating

liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, or toluene, interferes with or obstructs or prevents the free use of any street, sidewalk, or other public way.

(g) If a person has violated subdivision (f), a peace officer, if the officer is reasonably able to do so, shall place the person, or cause the person to be placed, in civil protective custody. The person shall be taken to a facility, designated pursuant to Section 5170 of the Welfare and Institutions Code, for the 72-hour treatment and evaluation of inebriates. A peace officer may place a person in civil protective custody with that kind and degree of force that would be lawful were the officer effecting an arrest for a misdemeanor without a warrant. A person who has been placed in civil protective custody shall not thereafter be subject to any criminal prosecution or juvenile court proceeding based on the facts giving rise to this placement. This subdivision does not apply to the following persons:

- (1) A person who is under the influence of any drug, or under the combined influence of intoxicating liquor and any drug.
- (2) A person who a peace officer has probable cause to believe has committed any felony, or who has committed any misdemeanor in addition to subdivision (f).
- (3) A person who a peace officer in good faith believes will attempt escape or will be unreasonably difficult for medical personnel to control.

(h) Who loiters, prowls, or wanders upon the private property of another, at any time, without visible or lawful business with the owner or occupant. As used in this subdivision, "loiter" means to delay or linger without a lawful purpose for being on the property and for the purpose of committing a crime as opportunity may be discovered.

(i) Who, while loitering, prowling, or wandering upon the private property of another, at any time, peeks in the door or window of any inhabited building or structure, without visible or lawful business with the owner or occupant.

(j) (1) A person who looks through a hole or opening, into, or otherwise views, by means of any instrumentality, including, but not limited to, a periscope, telescope, binoculars, camera, motion picture camera, camcorder, or mobile phone, the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which the occupant has a reasonable expectation of privacy, with the intent to invade the privacy of a person or persons inside. This subdivision does not apply to those areas of a private business used to count currency or other negotiable instruments.

(2) A person who uses a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, another identifiable person under or through the clothing being worn by that other person, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, with the intent to arouse, appeal to, or gratify the lust, passions, or sexual desires of that person and invade the privacy of that other person, under circumstances in which the other person has a reasonable expectation of privacy. For the purposes of this paragraph, "identifiable" means capable of identification, or capable of being recognized, meaning that someone could identify or recognize the victim, including the victim themselves. It does not require the victim's identity to actually be established.

(3) (A) A person who uses a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, another identifiable person who may be in a state of full or partial undress, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, in the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which that other person has a reasonable expectation of privacy, with the intent to invade the privacy of that other person. For the purposes of this paragraph, "identifiable" means capable of identification, or capable of being recognized, meaning that someone could identify or recognize the victim, including the victim themselves. It does not require the victim's identity to actually be established.

(B) Neither of the following is a defense to the crime specified in this paragraph:

- (i) The defendant was a cohabitant, landlord, tenant, cotenant, employer, employee, or business partner or associate of the victim, or an agent of any of these.
- (ii) The victim was not in a state of full or partial undress.

(4) (A) A person who intentionally distributes the image of the intimate body part or parts of another identifiable person, or an image of the person depicted engaged in an act of sexual intercourse, sodomy, oral copulation, sexual penetration, or an image of masturbation by the person depicted or in which the person depicted participates, under circumstances in which the persons agree or understand that the image shall remain private, the person distributing the image knows or should know that distribution of the image will cause serious emotional distress, and the person depicted suffers that distress.

(B) A person intentionally distributes an image described in subparagraph (A) when the person personally distributes the image, or arranges, specifically requests, or intentionally causes another person to distribute that image.

(C) As used in this paragraph, "intimate body part" means any portion of the genitals, the anus and in the case of a female, also includes any portion of the breasts below the top of the areola, that is either uncovered or clearly visible through clothing.

(D) It shall not be a violation of this paragraph to distribute an image described in subparagraph (A) if any of the following applies:

- (i) The distribution is made in the course of reporting an unlawful activity.
- (ii) The distribution is made in compliance with a subpoena or other court order for use in a legal proceeding.
- (iii) The distribution is made in the course of a lawful public proceeding.

(5) This subdivision does not preclude punishment under any section of law providing for greater punishment.

(k) (1) A second or subsequent violation of subdivision (j) is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or by both that fine and imprisonment.

(2) If the victim of a violation of subdivision (j) was a minor at the time of the offense, the violation is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or by both that fine and imprisonment.

(l) (1) If a crime is committed in violation of subdivision (b) and the person who was solicited was a minor at the time of the offense, and if the defendant knew or should have known that the person who was solicited was a minor at the time of the offense, the violation is punishable by imprisonment in a county jail for not less than two days and not more than one year, or by a fine not exceeding ten thousand dollars (\$10,000), or by both that fine and imprisonment.

(2) The court may, in unusual cases, when the interests of justice are best served, reduce or eliminate the mandatory two days of imprisonment in a county jail required by this subdivision. If the court reduces or eliminates the mandatory two days' imprisonment, the court shall specify the reason on the record.

**SEC. 7.5.** Section 647 of the Penal Code is amended to read:

**647.** Except as provided in paragraph (5) of subdivision (b) and subdivision (k), every person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor:

(a) An individual who solicits anyone to engage in or who engages in lewd or dissolute conduct in any public place or in any place open to the public or exposed to public view.

(b) (1) An individual who solicits, or who agrees to engage in, or who engages in, any act of prostitution with the intent to receive compensation, money, or anything of value from another person. An individual agrees to engage in an act of prostitution when, with specific intent to so engage, the individual manifests an acceptance of an offer or solicitation by another person to so engage, regardless of whether the offer or solicitation was made by a person who also possessed the specific intent to engage in an act of prostitution.

(2) An individual who solicits, or who agrees to engage in, or who engages in, any act of prostitution with another person who is 18 years of age or older in exchange for the individual providing compensation, money, or anything of value to the other person. An individual agrees to engage in an act of prostitution when, with specific intent to so engage, the individual manifests an acceptance of an offer or solicitation by another person who is 18 years of age or older to so engage, regardless of whether the offer or solicitation was made by a person who also possessed the specific intent to engage in an act of prostitution.

(3) An individual who solicits, or who agrees to engage in, or who engages in, any act of prostitution with another person who is a minor in exchange for the individual providing compensation, money, or anything of value to the minor. An individual agrees to engage in an act of prostitution when, with specific intent to so engage, the individual manifests an acceptance of an offer or solicitation by someone who is a minor to so engage, regardless of whether the offer or solicitation was made by a minor who also possessed the specific intent to engage in an act of prostitution.

(4) A manifestation of acceptance of an offer or solicitation to engage in an act of prostitution does not constitute a violation of this subdivision unless some act, in addition to the manifestation of acceptance, is done within this state in furtherance of the commission of the act of prostitution by the person manifesting an acceptance of an offer or solicitation to engage in that act. As used in this subdivision, "prostitution" includes any lewd act between persons for money or other consideration.

(5) Notwithstanding paragraphs (1) to (3), inclusive, this subdivision does not apply to a child under 18 years of age who is alleged to have engaged in conduct to receive money or other consideration that would, if committed by an adult, violate this subdivision. A commercially exploited child under this paragraph may be adjudged a dependent child of the court pursuant to paragraph (2) of subdivision (b) of Section 300 of the Welfare and Institutions Code and may be taken into temporary custody pursuant to subdivision (a) of Section 305 of the Welfare and Institutions Code, if the conditions allowing temporary custody without warrant are met.

(c) Who accosts other persons in any public place or in any place open to the public for the purpose of begging or soliciting alms.

(d) Who loiters in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious or any unlawful act.

(e) Who lodges in any building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or in control of it.

(f) Who is found in any public place under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, controlled substance, or toluene, in a condition that the person is unable to exercise care for the person's own safety or the safety of others, or by reason of the person's being under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, or toluene, interferes with or obstructs or prevents the free use of any street, sidewalk, or other public way.

(g) If a person has violated subdivision (f), a peace officer, if the officer is reasonably able to do so, shall place the person, or cause the person to be placed, in civil protective custody. The person shall be taken to a facility, designated pursuant to Section 5170 of the Welfare and Institutions Code, for the 72-hour treatment and evaluation of inebriates. A peace officer may place a person in civil protective custody with that kind and degree of force authorized to effect an arrest for a misdemeanor without a warrant. A person who has been placed in civil protective custody shall not thereafter be subject to any criminal prosecution or juvenile court proceeding based on the facts giving rise to this placement. This subdivision does not apply to the following persons:

(1) A person who is under the influence of any drug, or under the combined influence of intoxicating liquor and any drug.

(2) A person who a peace officer has probable cause to believe has committed any felony, or who has committed any misdemeanor in addition to subdivision (f).

(3) A person who a peace officer in good faith believes will attempt escape or will be unreasonably difficult for medical personnel to control.

(h) Who loiters, prowls, or wanders upon the private property of another, at any time, without visible or lawful business with the owner or occupant. As used in this subdivision, "loiter" means to delay or linger without a lawful purpose for being on the property and for the purpose of committing a crime as opportunity may be discovered.

(i) Who, while loitering, prowling, or wandering upon the private property of another, at any time, peeks in the door or window of any inhabited building or structure, without visible or lawful business with the owner or occupant.

(j) (1) A person who looks through a hole or opening, into, or otherwise views, by means of any instrumentality, including, but not limited to, a periscope, telescope, binoculars, camera, motion picture camera, camcorder, mobile phone, electronic device, or unmanned aircraft system, the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which the occupant has a reasonable expectation of privacy, with the intent to invade the privacy of a person or persons inside. This subdivision does not apply to those areas of a private business used to count currency or other negotiable instruments.

(2) A person who uses a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, another identifiable person under or through the clothing being worn by that other person, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, with the intent to arouse, appeal to, or gratify the lust, passions, or sexual desires of that person and invade the privacy of that other person, under circumstances in which the other person has a reasonable expectation of privacy. For the purposes of this paragraph, "identifiable" means capable of identification, or capable of being recognized, meaning that someone, including the victim, could identify or recognize the victim, including the victim. It does not require the victim's identity to actually be established.

(3) (A) A person who uses a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, another identifiable person who may be in a state of full or partial undress, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or



knowledge of that other person, in the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which that other person has a reasonable expectation of privacy, with the intent to invade the privacy of that other person. For the purposes of this paragraph, "identifiable" means capable of identification, or capable of being recognized, meaning that someone, including the victim, could identify or recognize the victim. It does not require the victim's identity to actually be established.

(B) Neither of the following is a defense to the crime specified in this paragraph:

(i) The defendant was a cohabitant, landlord, tenant, cotenant, employer, employee, or business partner or associate of the victim, or an agent of any of these.

(ii) The victim was not in a state of full or partial undress.

(4) (A) A person who intentionally distributes the image of the intimate body part or parts of another identifiable person, or an image of the person depicted engaged in an act of sexual intercourse, sodomy, oral copulation, sexual penetration, or an image of masturbation by the person depicted or in which the person depicted participates, under circumstances in which the persons agree or understand that the image shall remain private, the person distributing the image knows or should know that distribution of the image will cause serious emotional distress, and the person depicted suffers that distress.

(B) A person intentionally distributes an image described in subparagraph (A) when the person personally distributes the image, or arranges, specifically requests, or intentionally causes another person to distribute that image.

(C) As used in this paragraph, "intimate body part" means any portion of the genitals, the anus and in the case of a female, also includes any portion of the breasts below the top of the areola, that is either uncovered or clearly visible through clothing.

(D) It shall not be a violation of this paragraph to distribute an image described in subparagraph (A) if any of the following applies:

(i) The distribution is made in the course of reporting an unlawful activity.

(ii) The distribution is made in compliance with a subpoena or other court order for use in a legal proceeding.

(iii) The distribution is made in the course of a lawful public proceeding.

(5) This subdivision does not preclude punishment under any section of law providing for greater punishment.

(k) (1) A second or subsequent violation of subdivision (j) is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or by both that fine and imprisonment.

(2) If the victim of a violation of subdivision (j) was a minor at the time of the offense, the violation is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or by both that fine and imprisonment.

(l) (1) If a crime is committed in violation of subdivision (b) and the person who was solicited was a minor at the time of the offense, and if the defendant knew or should have known that the person who was solicited was a minor at the time of the offense, the violation is punishable by imprisonment in a county jail for not less than two days and not more than one year, or by a fine not exceeding ten thousand dollars (\$10,000), or by both that fine and imprisonment.

(2) The court may, in unusual cases, when the interests of justice are best served, reduce or eliminate the mandatory two days of imprisonment in a county jail required by this subdivision. If the court reduces or eliminates the mandatory two days' imprisonment, the court shall specify the reason on the record.

**SEC. 8.** Section 1808 of the Vehicle Code is amended to read:

**1808.** (a) Except where a specific provision of law prohibits the disclosure of records or information or provides for confidentiality, all records of the department relating to the registration of vehicles, other information contained on an application for a driver's license, abstracts of convictions, and abstracts of accident reports required to be sent to the department in Sacramento, except for abstracts of accidents where, in the opinion of a reporting officer, another individual was at fault, shall be open to public inspection during office hours. All abstracts of accident reports shall be available to law enforcement agencies and courts of competent jurisdiction.

(b) The department shall make available or disclose abstracts of convictions and abstracts of accident reports required to be sent to the department in Sacramento, as described in subdivision (a), if the date of the occurrence is not later than the following:

(1) Ten years for a violation pursuant to Section 23140, 23152, or 23153.

(2) Seven years for a violation designated as two points pursuant to Section 12810, except as provided in paragraph (1) of this subdivision.

(3) Three years for accidents and all other violations.

(c) The department shall make available or disclose suspensions and revocations of the driving privilege while the suspension or revocation is in effect and for three years following termination of the action or reinstatement of the privilege, except that driver's license suspension actions taken pursuant to former Sections 13202.6 and 13202.7, Section 17520 of the Family Code, or Section 256 or former Section 11350.6 of the Welfare and Institutions Code shall be disclosed only during the actual time period in which the suspension is in effect.

(d) The department shall not make available or disclose a suspension or revocation that has been judicially set aside or stayed.

(e) The department shall not make available or disclose personal information about a person unless the disclosure is in compliance with the Driver's Privacy Protection Act of 1994 (18 U.S.C. Sec. 2721 et seq.). However, a disclosure is subject to the prohibition in paragraph (2) of subdivision (a) of Section 12800.5.

(f) The department shall make available or disclose to the courts and law enforcement agencies a conviction of Section 23103, as specified in Section 23103.5, or a conviction of Section 23140, 23152, or 23153, or Section 655 of the Harbors and Navigation Code, or paragraph (1) of subdivision (c) of Section 192 of the Penal Code for a period of 10 years from the date of the offense for the purpose of imposing penalties mandated by this code, or by other applicable provisions of California law.

(g) The department shall make available or disclose to the courts and law enforcement agencies a conviction of Section 191.5, or subdivision (a) of Section 192.5 of the Penal Code, punished as a felony, for the purpose of imposing penalties mandated by Section 23550.5, or by other applicable provisions of California law.

**SEC. 9.** Section 13201.5 of the Vehicle Code is repealed.

**SEC. 10.** Section 13202 of the Vehicle Code is repealed.

**SEC. 11.** Section 13202.4 of the Vehicle Code is repealed.

**SEC. 12.** Section 13202.5 of the Vehicle Code is amended to read:

**13202.5.** (a) (1) For each conviction of a person for an offense specified in subdivision (d), committed while the person was under 21 years of age, but 13 years of age or older, the court shall suspend the person's driving privilege for one year. If the person convicted does not yet have the privilege to drive, the court shall order the department to delay issuing the privilege to drive for one year subsequent to the time the person becomes legally eligible to drive. However, if there is no further conviction for an offense specified in subdivision (d) in a 12-month period after the conviction, the court, upon petition of the person affected, may modify the order imposing the delay of the privilege. For each successive offense, the court shall suspend the person's driving privilege for those possessing a license or delay the eligibility for those not in possession of a license at the time of their conviction for one additional year.

(2) As used in this section, the term "conviction" includes the findings in juvenile proceedings specified in Section 13105.

(b) Whenever the court suspends driving privileges pursuant to subdivision (a), the court in which the conviction is had shall require all driver's licenses held by the person to be surrendered to the court. The court shall within 10 days following the conviction transmit a certified abstract of the conviction, together with any driver's licenses surrendered, to the department.

(c) (1) After a court has issued an order suspending or delaying driving privileges pursuant to subdivision (a), the court, upon petition of the person affected, may review the order and may impose restrictions on the person's privilege to drive based upon a showing of a critical need to drive.

(2) As used in this section, "critical need to drive" means the circumstances that are required to be shown for the issuance of a junior permit pursuant to Section 12513.

(3) The restriction shall remain in effect for the balance of the period of suspension or restriction in this section. The court shall notify the department of any modification within 10 days of the order of modification.

(d) This section applies to violations involving controlled substances or alcohol contained in the following provisions:

(1) Section 191.5 of, and subdivision (a) or (b) of Section 192.5 of, the Penal Code.

(2) Section 23103 when subject to Section 23103.5, Section 23140, and Article 2 (commencing with Section 23152) of Chapter 12 of Division 11 of this code.

(e) Suspension, restriction, or delay of driving privileges pursuant to this section shall be in addition to any penalty imposed upon conviction of a violation specified in subdivision (d).

**SEC. 13.** Section 13202.6 of the Vehicle Code is repealed.

**SEC. 14.** Section 23224 of the Vehicle Code is amended to read:

**23224.** (a) No person under 21 years of age shall knowingly drive any motor vehicle carrying any alcoholic beverage, unless the person is accompanied by a parent, responsible adult relative, any other adult designated by the parent, or legal guardian for the purpose of transportation of an alcoholic beverage, or is employed by a licensee under the Alcoholic Beverage Control Act (Division 9 (commencing with Section 23000) of the Business and Professions Code), and is driving the motor vehicle during regular hours and in the course of the person's employment. If the driver was unaccompanied, they shall have a complete defense if they were following, in a timely manner, the reasonable instructions of a parent, legal guardian, responsible adult relative, or adult designee relating to disposition of the alcoholic beverage.

(b) No passenger in any motor vehicle who is under 21 years of age shall knowingly possess or have under that person's control any alcoholic beverage, unless the passenger is accompanied by a parent, legal guardian, responsible adult relative, any other adult designated by the parent, or legal guardian for the purpose of transportation of an alcoholic beverage, or is employed by a licensee under the Alcoholic Beverage Control Act (Division 9 (commencing with Section 23000) of the Business and Professions Code), and possession or control is during regular hours and in the course of the passenger's employment. If the passenger was unaccompanied, they shall have a complete defense if they were following, in a timely manner, the reasonable instructions of a parent, legal guardian, responsible adult relative or adult designee relating to disposition of the alcoholic beverage.

(c) If the vehicle used in any violation of subdivision (a) or (b) is registered to an offender who is under 21 years of age, the vehicle may be impounded at the owner's expense for not less than one day nor more than 30 days for each violation.

(d) Any person convicted for a violation of subdivision (a) or (b) is guilty of a misdemeanor and shall be punished upon conviction by a fine of not more than one thousand dollars (\$1,000) or by imprisonment in the county jail for not more than six months, or by both that fine and imprisonment.

**SEC. 15.** (a) This act is not intended to affect any order issued by the court before January 1, 2020, to suspend, delay, or otherwise restrict the driving privilege of a person. This act is also not intended to affect any action taken by the Department of Motor Vehicles, whether before, on, or after January 1, 2020, pursuant to an order issued by the court before January 1, 2020, to suspend, delay, or otherwise restrict the driving privilege of a person.

(b) This act is intended to remove the authority of the court to suspend, delay, or otherwise restrict the driving privilege, and to remove the authority of the court to order the Department of Motor Vehicles to suspend, delay, or otherwise restrict the driving privilege, of the following persons pursuant to this act:

(1) Persons who are convicted, on or after January 1, 2020, of an offense described in this act that would have been subject to the suspension, delay, or restriction.

(2) Persons who were convicted, before January 1, 2020, of an offense described in this act that would have been subject to the suspension, delay, or restriction, but for whom an order was not issued by the court before January 1, 2020, to suspend, delay, or otherwise restrict their driving privilege.

**SEC. 16.** Section 7.5 of this bill incorporates amendments to Section 647 of the Penal Code proposed by both this bill and Assembly Bill 1129. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends Section 647 of the Penal Code, and (3) this bill is enacted after Assembly Bill 1129, in which case Section 7 of this bill shall not become operative.