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AB-2198 Vehicles: driving under the influence. (2021-2022)

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Assembly Bill No. 2198

CHAPTER 81

An act to amend Sections 1821, 13800, 13954, 23517, 23575.5, 40300.5, and 40300.6 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 01, 2022. Filed with Secretary of State July 01, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2198, Fong. Vehicles: driving under the influence.

Existing law regulates vehicles, including rules of the road, licensing requirements, and criminal penalties. Existing law makes it unlawful to drive a motor vehicle or ride a bicycle under the influence of alcohol or drugs, as specified, and imposes consequences when a traffic accident occurs as a result. Existing law, the Youthful Drunk Driver Visitation Program Act, authorizes a court to require a defendant or ward to visit various facilities, such as a trauma facility, as specified, a chemical dependency recovery hospital, or a county coroner's office.

This bill would delete the provision authorizing a court to require a defendant or ward to visit a chemical dependency recovery hospital. This bill would replace the term "accident" with "crash" in various provisions related to driving under the influence of drugs or alcohol.

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

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

SECTION 1. It is the intent of the Legislature that replacing the term "accident" with "crash" in this act shall not be construed to impose any new duty or responsibility.

SEC. 2. Section 1821 of the Vehicle Code is amended to read:

1821. (a) The department shall establish and maintain a data and monitoring system to evaluate the efficacy of intervention programs for persons convicted of violations of Section 23152 or 23153.

(b) The system may include a recidivism tracking system. The recidivism tracking system may include, but not be limited to, jail sentencing, license restriction, license suspension, level I (first offender) and II (multiple offender) alcohol and drug education and treatment program assignment, alcohol and drug education treatment program readmission and dropout rates, adjudicating court, length of jail term, actual jail or alternative sentence served, type of treatment program assigned, actual program compliance status, subsequent crashes related to driving under the influence of alcohol or drugs, and subsequent convictions of violations of Section 23152 or 23153.

(c) The systems described in subdivisions (a) and (b) shall include an evaluation of the efficacy of the increased level of intervention resulting from the act that added this subdivision.

(d) The department shall submit an annual report of its evaluations to the Legislature. The evaluations shall include a ranking of the relative efficacy of criminal penalties, other sanctions, and intervention programs and the various combinations thereof, including, but not limited to, those described in subdivision (c).

SEC. 3. Section 13800 of the Vehicle Code is amended to read:

13800. The department may conduct an investigation to determine whether the privilege of any person to operate a motor vehicle should be suspended or revoked or whether terms or conditions of probation should be imposed upon receiving information or upon a showing by its records:

(a) That the licensee has been involved as a driver in an accident causing death or personal injury or serious damage to property.

(b) That the licensee has been involved in three or more accidents within a period of 12 consecutive months.

(c) That the person in three consecutive years has committed three or more offenses that have resulted in convictions involving the consumption of an alcoholic beverage or drug, or both, while operating a motor vehicle, including, but not limited to, offenses under Section 23103.5, 23152, 23153, 23222, or 23224; has been involved in three or more crashes in which the crash reports show that the person was driving and had consumed alcoholic beverages or drugs, or both; or had any combination of three or more of those offenses and crashes.

(d) That the licensee is a reckless, negligent, or incompetent driver of a motor vehicle.

(e) That the licensee has permitted an unlawful or fraudulent use of their driver's license.

(f) That any ground exists for which a license might be refused. The receipt by the department of an abstract of the record of conviction of any offense involving the use or possession of narcotic controlled substances under Division 10 (commencing with Section 11000) of the Health and Safety Code shall be a sufficient basis for an investigation by the department to determine whether grounds exist for which a license might be refused.

SEC. 4. Section 13954 of the Vehicle Code is amended to read:

13954. (a) Notwithstanding any other provision of this code, the department immediately shall suspend or revoke the driving privilege of a person who the department has reasonable cause to believe was in some manner involved in a crash while operating a motor vehicle under the following circumstances at the time of the crash:

(1) The person had 0.08 percent or more, by weight, of alcohol in their blood.

(2) They proximately caused the crash as a result of an act prohibited, or the neglect of any duty imposed, by law.

(3) The crash occurred within five years of the date of a violation of subdivision (b) of Section 191.5 of the Penal Code that resulted in a conviction.

(b) If a crash described in subdivision (a) does not result in a conviction or finding of a violation of Section 23152 or 23153, the department shall suspend the driving privilege under this section for one year from the date of commencement of the original suspension. After the one-year suspension period, the driving privilege may be reinstated if evidence establishes to the satisfaction of the department that no grounds exist that would authorize the refusal to issue a license and that reinstatement of the driving privilege would not jeopardize the safety of the person or other persons upon the highways, and if the person gives proof of financial responsibility, as defined in Section 16430.

(c) If a crash described in subdivision (a) does result in a conviction or finding of a violation of Section 23152 or 23153, the department shall revoke the driving privilege under this section for three years from the date of commencement of the original revocation. After the three-year revocation period, the driving privilege may be reinstated if evidence establishes to the satisfaction of the department that no grounds exist that would authorize the refusal to issue a license and that reinstatement of the driving privilege would not jeopardize the safety of the person or other persons upon the highways, and if the person gives proof of financial responsibility.

(d) Any revocation action under subdivision (c) shall be imposed as follows:

(1) If the crash results in a first conviction of a violation of Section 23152 or 23153, or if the person was convicted of a separate violation of Section 23152 or 23153 that occurred within five years of the crash, the period of revocation under subdivision (c) shall be concurrent with any period of restriction, suspension, or revocation imposed under Section 13352, 13352.4, or 13352.5.

(2) If the person was convicted of two or more separate violations of Section 23152 or 23153, or both, that occurred within five years of the crash, the period of revocation under subdivision (c) shall be cumulative and shall be imposed consecutively with any period of restriction, suspension, or revocation imposed under Section 13352 or 13352.5.

(e) The department immediately shall notify the person in writing of the action taken and, upon the person's request in writing and within 15 days from the date of receipt of that request, shall grant the person an opportunity for a hearing in the same manner and under the same conditions as provided in Article 3 (commencing with Section 14100) of Chapter 3, except as otherwise provided in this section. For purposes of this section, the scope of the hearing shall cover the following issues:

(1) Whether the peace officer had reasonable cause to believe the person had been driving a motor vehicle in violation of Section 23152 or 23153.

(2) Whether the person had been placed under lawful arrest.

(3) Whether a chemical test of the person's blood, breath, or urine indicated that the blood-alcohol level was 0.08 percent or more, by weight, at the time of testing.

If the department determines, upon a hearing of the matter, that the person had not been placed under lawful arrest, or that a chemical test of the person's blood, breath, or urine did not indicate a blood-alcohol level of 0.08 percent or more, by weight, at the time of testing, the suspension or revocation shall be terminated immediately.

(f) This section applies if the crash occurred on or after January 1, 1990, without regard for the dates of the violations referred to in subdivisions (a) and (d).

(g) Notwithstanding subdivision (f), if a person's privilege to operate a motor vehicle is required to be suspended or revoked pursuant to this section as it read before January 1, 1990, as a result of a crash that occurred before January 1, 1990, the privilege shall be suspended or revoked pursuant to this section as it read before January 1, 1990.

SEC. 5. Section 23517 of the Vehicle Code is amended to read:

23517. (a) To the extent that personnel and facilities are made available to the court, the court may include a requirement for supervised visitation by the defendant or ward to all, or any, of the following:

(1) A trauma facility, as defined in Section 1798.160 of the Health and Safety Code, a base hospital designated pursuant to Section 1798.100 or 1798.101 of the Health and Safety Code, or a general acute care hospital having a basic emergency medical services special permit issued pursuant to subdivision (c) of Section 1277 of the Health and Safety Code that regularly receives victims of vehicle crashes, between the hours of 10 p.m. and 2 a.m. on a Friday or Saturday night to observe appropriate victims of vehicle crashes involving drinking drivers, under the supervision of any of the following:

(A) A registered nurse trained in providing emergency trauma care or prehospital advanced life support.

(B) An emergency room physician.

(C) An emergency medical technician-paramedic or an emergency medical technician II.

(2) If approved by the county coroner, the county coroner's office or the county morgue to observe appropriate victims of vehicle crashes involving drinking drivers, under the supervision of the coroner or a deputy coroner.

(b) As used in this section, "appropriate victims" means victims whose condition is determined by the visitation supervisor to demonstrate the results of crashes involving drinking drivers without being excessively gruesome or traumatic to the probationer.

(c) If persons trained in counseling or substance abuse are made available to the court, the court may coordinate the visitation program or the visitations at any facility designated in subdivision (a) through those persons.

(d) Any visitation shall include, before any observation of victims or disabled persons by the probationer, a comprehensive counseling session with the visitation supervisor at which the supervisor shall explain and discuss the experiences that may be encountered during the visitation in order to ascertain whether the visitation is appropriate for the probationer.

(e) If at any time, whether before or during a visitation, the supervisor of the probationer determines that the visitation may be or is traumatic or otherwise inappropriate for the probationer, or is uncertain whether the visitation may be traumatic or inappropriate, the visitation shall be terminated without prejudice to the probationer.

(f) Prior to the court including a requirement for supervised visitation, pursuant to subdivision (a), the court shall consider the speed of the vehicle, the severity of any injuries sustained as a result of the violation, and whether the defendant or ward was engaged in a speed competition, as defined in Section 23109.

SEC. 6. Section 23575.5 of the Vehicle Code is amended to read:

23575.5. (a) On or before March 1, 2024, the Department of Motor Vehicles shall report data to the Transportation Agency regarding the implementation and efficacy of the program enacted by the act that added this section.

(b) The data described in subdivision (a) shall, at a minimum, include all of the following:

(1) The number of individuals who were required to have a functioning, certified ignition interlock device installed as a result of the program who killed or injured anyone in a crash while they were operating a vehicle under the influence of alcohol.

(2) The number of individuals who were required to have a functioning, certified ignition interlock device installed as a result of the program who were convicted of an alcohol-related violation of Section 23103, as specified in Section 23103.5, or Section 23140, 23152, or 23153, or Section 191.5 or subdivision (a) of Section 192.5 of the Penal Code during the term in which the person was required to have the ignition interlock device installed.

(3) The number of injuries and deaths resulting from alcohol-related motor vehicle crashes between January 1, 2019, and January 1, 2024, inclusive, and during periods of similar duration prior to the implementation of the program.

(4) The number of individuals who have been convicted more than one time for driving under the influence of alcohol between January 1, 2019, and January 1, 2024, inclusive, and periods of similar duration prior to the implementation of the program.

(5) Any other information requested by the Transportation Agency to assess the effectiveness of the statewide ignition interlock device requirement in reducing recidivism for driving-under-the-influence violations.

(c) The Transportation Agency may contract with educational institutions to obtain and analyze the data required by this section.

(d) The Transportation Agency shall assess the program based on the data provided pursuant to subdivision (b) and shall report to the Legislature on the outcomes of the program no later than January 1, 2025.

(e) The report described in subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(f) (1) This section shall become operative on January 1, 2019.

(2) This section is repealed as of January 1, 2029, unless a later enacted statute, that becomes operative on or before January 1, 2029, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 7. Section 40300.5 of the Vehicle Code is amended to read:

40300.5. In addition to the authority to make an arrest without a warrant pursuant to paragraph (1) of subdivision (a) of Section 836 of the Penal Code, a peace officer may, without a warrant, arrest a person when the officer has reasonable cause to believe that the person had been driving while under the influence of an alcoholic beverage or any drug, or under the combined influence of an alcoholic beverage and any drug when any of the following exists:

(a) The person is involved in a traffic crash.

(b) The person is observed in or about a vehicle that is obstructing a roadway.

(c) The person will not be apprehended unless immediately arrested.

(d) The person may cause injury to themselves or damage property unless immediately arrested.

(e) The person may destroy or conceal evidence of the crime unless immediately arrested.

SEC. 8. Section 40300.6 of the Vehicle Code is amended to read:

40300.6. Section 40300.5 shall be liberally interpreted to further safe roads and the control of driving while under the influence of an alcoholic beverage or any drug in order to permit arrests to be made pursuant to that section within a reasonable time and distance away from the scene of a traffic crash.

The enactment of this section during the 1985–86 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law.