

Introduced by Senator Huff

January 25, 2010

An act to amend Section 13353 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 895, as introduced, Huff. Vehicles: driver's license: suspension.

Existing law requires the Department of Motor Vehicles to suspend a person's privilege to operate a motor vehicle for one year or revoke a person's privilege for 2 or 3 years under specified circumstances, if the person refuses an officer's request to submit to, or fails to complete, a chemical test, and the officer had reasonable cause to believe that the person was operating a motor vehicle under the influence and had provided a sworn statement stating so.

This bill would make technical, nonsubstantive changes to that provision.

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

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

- 1 SECTION 1. Section 13353 of the Vehicle Code is amended
- 2 to read:
- 3 13353. (a) If a person refuses the officer's request to submit
- 4 to, or fails to complete, a chemical test or tests pursuant to Section
- 5 23612, upon receipt of the officer's sworn statement that the officer
- 6 had reasonable cause to believe the person had been driving a
- 7 motor vehicle in violation of Section 23140, 23152, or 23153, and
- 8 that the person had refused to submit to, or did not complete, the

1 test or tests after being requested by the officer, the department
2 shall do one of the following:

3 (1) Suspend the person's privilege to operate a motor vehicle
4 for a period of one year.

5 (2) Revoke the person's privilege to operate a motor vehicle for
6 a period of two years if the refusal occurred within 10 years of
7 either (A) a separate violation of Section 23103 as specified in
8 Section 23103.5, or of Section 23140, 23152, or 23153, or of
9 Section 191.5 or subdivision (a) of Section 192.5 of the Penal
10 Code, that resulted in a conviction, or (B) a suspension or
11 revocation of the person's privilege to operate a motor vehicle
12 pursuant to this section or Section 13353.2 for an offense that
13 occurred on a separate occasion.

14 (3) Revoke the person's privilege to operate a motor vehicle for
15 a period of three years if the refusal occurred within 10 years of
16 any of the following:

17 (A) Two or more separate violations of Section 23103 as
18 specified in Section 23103.5, or of Section 23140, 23152, or 23153,
19 or of Section 191.5 or subdivision (a) of Section 192.5 of the Penal
20 Code, or any combination thereof, that resulted in convictions.

21 (B) Two or more suspensions or revocations of the person's
22 privilege to operate a motor vehicle pursuant to this section or
23 Section 13353.2 for offenses that occurred on separate occasions.

24 (C) ~~Any~~ A combination of two or more of those convictions or
25 administrative suspensions or revocations.

26 ~~The~~

27 (b) *The* officer's sworn statement shall be submitted pursuant
28 to Section 13380 on a form furnished or approved by the
29 department. The suspension or revocation shall not become
30 effective until 30 days after the giving of written notice thereof,
31 or until the end of a stay of the suspension or revocation, as
32 provided for in Section 13558.

33 ~~(D)~~

34 (c) For the purposes of this section, a conviction of an offense
35 in any state, territory, or possession of the United States, the
36 District of Columbia, the Commonwealth of Puerto Rico, or the
37 Dominion of Canada that, if committed in this state, would be a
38 violation of Section 23103, as specified in Section 23103.5, or
39 Section 23140, 23152, or 23153, or Section 191.5 or subdivision

1 (a) of Section 192.5 of the Penal Code, is a conviction of that
2 particular section of the Vehicle Code or Penal Code.

3 ~~(b)~~

4 (d) If a person on more than one occasion in separate incidents
5 refuses the officer's request to submit to, or fails to complete, a
6 chemical test or tests pursuant to Section 23612 while driving a
7 motor vehicle, upon the receipt of the officer's sworn statement
8 that the officer had reasonable cause to believe the person had
9 been driving a motor vehicle in violation of Section 23140, 23152,
10 or 23153, the department shall disqualify the person from operating
11 a commercial motor vehicle for the rest of his or her lifetime.

12 ~~(e)~~

13 (e) The notice of the order of suspension or revocation under
14 this section shall be served on the person by a peace officer
15 pursuant to Section 23612. The notice of the order of suspension
16 or revocation shall be on a form provided by the department. If
17 the notice of the order of suspension or revocation has not been
18 served by the peace officer pursuant to Section 23612, the
19 department immediately shall notify the person in writing of the
20 action taken. The peace officer who serves the notice, or the
21 department, if applicable, also shall provide, if the officer or
22 department, as the case may be, determines that it is necessary to
23 do so, the person with the appropriate non-English notice developed
24 pursuant to subdivision (d) of Section 14100.

25 ~~(f)~~

26 (f) Upon the receipt of the officer's sworn statement, the
27 department shall review the record. For purposes of this section,
28 the scope of the administrative review shall cover all of the
29 following issues:

30 (1) Whether the peace officer had reasonable cause to believe
31 the person had been driving a motor vehicle in violation of Section
32 23140, 23152, or 23153.

33 (2) Whether the person was placed under arrest.

34 (3) Whether the person refused to submit to, or did not complete,
35 the test or tests after being requested by a peace officer.

36 (4) Whether, except for a person described in subdivision (a)
37 of Section 23612 who is incapable of refusing, the person had been
38 told that his or her driving privilege would be suspended or revoked
39 if he or she refused to submit to, or did not complete, the test or
40 tests.

1 ~~(e)~~
2 (g) The person may request an administrative hearing pursuant
3 to Section 13558. Except as provided in subdivision (e) of Section
4 13558, the request for an administrative hearing does not stay the
5 order of suspension or revocation.

6 ~~(f)~~
7 (h) The suspension or revocation imposed under this section
8 shall run concurrently with any restriction, suspension, or
9 revocation imposed under Section 13352, 13352.4, or 13352.5 that
10 resulted from the same arrest.

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