
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair

2021 - 2022 Regular

Bill No: AB 2198 **Hearing Date:** May 31, 2022
Author: Fong
Version: February 15, 2022
Urgency: No **Fiscal:** No
Consultant: MK

Subject: *Vehicles: driving under the influence*

HISTORY

Source: Candace Lightner, We Save Lives, Founder and President

Prior Legislation: None

Support: Unknown

Opposition: None known

Assembly Floor Vote: 68 - 0

PURPOSE

The purpose of this bill is to replace the term “accident” with “crash” in the Vehicle Code when used to describe collisions involving one or more persons driving under the influence of alcohol or drugs, and removes provisions of the Youth Drunk Driver Visitation Program authorizing a court to require supervised visitation by defendant or ward at a chemical dependency hospital.

Existing law states that it is unlawful for a person who is under the influence of any alcoholic beverage to drive a vehicle. (Vehicle Code § 23152 (a).)

Existing law specifies that it is unlawful for a person who has 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle. (Vehicle Code § 23152 (b).)

Existing law provides that it is unlawful for a person who is under the influence of any drug to drive a vehicle. (Vehicle Code § 23152 (f).)

Existing law specifies that it is unlawful for a person who is under the combined influence of any alcoholic beverage and drug to drive a vehicle. (Vehicle Code § 23152 (g).)

Existing law contains a rebuttable presumption that the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after the driving. (Vehicle Code § 23152 (b).)

Existing law criminalizes various acts pertaining to underage drinking and authorizes the court to suspend or delay the driving privilege of a person convicted of such an offense. (Bus & Prof. §§ 25658, 25658.4, 25658.5, 25661, 25662; Penal Code § 529.5.)

Existing law authorizes the court to order, with the consent of the defendant or ward, participation in the Youth Drunk Driver Visitation Program as a term and condition of probation in addition to any other term or condition authorized by law. (Vehicle Code § 23514 (a).)

Existing law requires the court to consult with the defendant or ward, their counsel, any proposed visitation supervisor, and any other person whom the court finds may be of value, to ascertain whether the defendant or ward is suitable for the visitation program. (Vehicle Code § 23516.)

Existing law authorizes the court to include a requirement for supervised visitation by the defendant or ward at a trauma facility to observe appropriate victims of vehicle accidents involving drinking drivers; at a facility that cares for advanced alcoholics; or at the county coroner's office or the county morgue to observe appropriate victims of vehicle accidents involving drinking drivers. (Vehicle Code § 23517 (a)(1)-(3).)

This bill replaces the term "accident" with the term "crash" throughout Vehicle Code provisions related to driving under the influence.

This bill removes a court's authority to require supervised visitation by the defendant or ward to a facility that cares for advanced alcoholics to observe persons in the terminal stages of alcoholism or drug abuse.

This bill requires the court to 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 before requiring supervised visitation.

COMMENTS

1. Need for This Bill

According to the author:

Current law refers to crashes and crimes that involve impairment or distraction as "accidents." Accidents are unpredictable. Drunk, drugged, and distracted drivers, however, are statistically much more likely to be involved in a crash, so they are not unpredictable. The term "accident" denies the driver responsibility and enables the driver to continue to drive drunk, drugged, or otherwise distracted.

AB 2198 calls necessary attention to the threat distracted and impaired driving poses to drivers, passengers, and pedestrians. By changing "accident" to "crash," we can place more responsibility on drivers to drive safely. Driving impaired or distracted is not an accident, it is a choice, and lives are put at risk.

2. Changing “Accident” to “Crash”

Proponents of changing “accident” to “crash” believe that referring to a collision involving an impaired or distracted driver as an “accident” suggests a lack of culpability or negligence on the part of the driver. The bill’s sponsor argues, “Accidents are unpredictable. However, drunk, drugged, and distracted drivers are statistically much more likely to be involved in a crash. In other words, they are predictable.”

Unlike “accident,” “crash” is a neutral term. According to Merriam-Webster, “accident” means “an unforeseen and unplanned event or circumstance.” (Merriam-Webster Online Dictionary <<https://www.merriam-webster.com/dictionary/accident>> [Mar. 14, 2022].) The AP Stylebook recommends replacing “accident” with “crash” “when negligence is claimed or proven,” noting that “accident...can be read by some as a term exonerating the person responsible.” (AP Stylebook Online <https://www.apstylebook.com/ap_stylebook/accident-crash> [last viewed Mar. 14, 2022].)

3. Supervised Visitation at a Facility that Cares for Advance Alcohol Use Disorder

This bill would remove the authority to mandate supervised visitation of a defendant at a facility that “cares for advanced alcoholics...to observe persons in the terminal stages of alcoholism or drug abuse.” The message of this intervention appears to be that continued alcohol or drug use could lead to a slow death by disease. However, the sponsor argues that the harms of drunk driving are neither slow nor limited to damage to one’s own body. The problem with using alcohol and/or drugs *and* driving is the increased likelihood of severe injury or death to the driver and/or others, not that they may someday die from cirrhosis or Hepatitis C. Supervised visitation at a facility for people dying of alcohol or substance use disorders only tenuously conveys this message, if at all.

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