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## SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair  
2021 - 2022 Regular

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**Bill No:** SB 925                      **Hearing Date:** April 5, 2022  
**Author:** Bates  
**Version:** February 7, 2022  
**Urgency:** No                                      **Fiscal:** Yes  
**Consultant:** MK

**Subject:** *Fatal vehicular accidents: chemical test results*

### HISTORY

**Source:** Orange County Sheriff

**Prior Legislation:** SB 283 (Bates) failed Assembly Public Safety 2019

**Support:** Alcohol Justice; American Automobile Association of Northern California, Nevada & Utah; Automobile Club of Southern California/Interinsurance Exchange of The Automobile Club/ACSC Management Services INC.; California Association of Crime Laboratory Directors; California State Sheriffs Association; Diageo Foundation for Advancing Alcohol Responsibility; Fullerton Police Department

**Opposition:** None known

### PURPOSE

***The purpose of this bill is to require coroners and medical examiners to test the body of a person killed in a motor vehicle accident for drugs as well as alcohol.***

*Existing law* provides that for purposes of the Vehicle Code, the term “drug” means any substance or combination of substances, other than alcohol, which could so affect the nervous system, brain, or muscles of a person as to impair, to an appreciable degree, his ability to drive a vehicle in the manner that an ordinarily prudent and cautious man, in full possession of his faculties, using reasonable care, would drive a similar vehicle under like conditions. (Vehicle Code § 312)

*Existing law* provides that the coroner, or the coroner’s appointed deputy, on being notified of a death occurring while the deceased was driving or riding in a motor vehicle, or as a result of the deceased being struck by a motor vehicle, shall take blood and urine samples from the body of the deceased before it has been prepared for burial and make appropriate related chemical tests to determine the alcoholic contents, if any, of the body. The coroner may perform other chemical tests including, but not limited to, barbituric acid and amphetamine derivative as deemed appropriate. (Government Code § 27491.25 (a))

*This bill* provides that in addition to testing for alcohol the coroner or medical examiner shall test biological samples for drug screening and confirmatory tests for drugs as defined in Vehicle Code § 312)

*Existing law* provides that the detailed medical findings, resulting from those examinations that are conducted, shall either be reduced to writing or permanently preserved on recording discs or other similar recording media and shall include all positive and negative findings pertinent to the presence or absence of any alcoholic or other substance content. (Government Code § 27491.25 (b))

*This bill* provides that the findings shall include blood alcohol content and blood drug concentrations when available.

*Existing law* provides that the above shall not apply to the testing of deceased persons under the age of 15 years, unless the surrounding circumstances indicate the possibility of alcoholic, barbituric acid, and amphetamine derivative consumption, nor shall it apply when the death has occurred more than 24 hours after the accident. (Government Code § 27491.25 (c))

*This bill* provides instead that it does not apply to a deceased person under 15 years of age unless the circumstances indicate the possibility of alcohol or drug consumption.

*This bill* provides instead that it does not apply to a death that occurred more than 48 hours after the accident.

*This bill* provides that for purposes of this section, hospital antemortem samples, if available, shall be used to in place of postmortem samples if the decedent was hospitalized prior to death.

*Existing law* provides that every coroner shall report monthly to CHP the death of any person during the preceding calendar month as a result of a motor vehicle accident and the circumstances of the accident.

*This bill* provides that the report shall include chemical test results, including blood alcohol content and blood drug concentrations when available.

## COMMENTS

### 1. Need for This Bill

According to the author:

- In 2020, California experienced 3,723 deaths due to car collisions. Unfortunately, many of the drivers involved in these collisions are driving impaired due to alcohol and/or drug consumption. In 2021, 54.5% of fatally injured drivers in Orange County had at least one substance, drugs and/or alcohol, in their system.
- Local coroners and medical examiners are required to test deceased drivers and passengers for alcohol content, but not for drug content. With the legalization of recreational marijuana and the rise of opioid abuse, many driving under the influence cases are due to drug use, not just alcohol use. For instance, from August 1,

2020 to July 31, 2021, impairing drugs were detected in 41% of samples analyzed by the Orange County Crime Lab where the Blood Alcohol Content (BAC) was 0.08% or greater.

- Local governments in Orange and San Francisco counties have voluntarily begun testing for drug content after fatal collisions; however, many of these cases are going undetected statewide because there is no requirement to test for a driver's drug content after a fatal collision.
- Without accurate data on the causes of fatal collisions across the state, the Legislature cannot make sound, evidence-based policies to address the primary causes of these collisions.
- SB 925 gives law enforcement the tools needed to quantify the causes of impairment in fatal collisions. This bill will update current law to require drug testing after fatal collisions, in addition to alcohol testing – reflecting more accurately the modern use of prescription and recreational drugs. Additionally, SB 925 will require testing in cases of death that occur within 48 hours of the collision, in lieu of 24 hours, capturing significantly more data on fatal collisions.
- As California adjusts to the legalization of recreational marijuana and grapples with the opioid epidemic, the Legislature must give law enforcement every tool possible to understand and prevent future fatal collisions.

## **2. Coroner to Check for Drugs after Death in Auto Accident**

Existing law requires the coroner to take blood and urine samples from a person killed in a vehicle accident to test for alcohol and to perform chemical tests for barbituric acid and amphetamine as deemed appropriate. The coroner shall also make a report monthly to CHP detailing any vehicle death that happened in the preceding month.

This bill clarifies that the above duties apply to the coroner or medical examiner. It further provides that along with blood, other appropriate biological samples shall be taken and they should be tested for drugs, as defined by the Vehicle Code. The report to CHP shall include any findings regarding alcohol or drugs.

The bill also clarifies that it shall not apply to a person under the age of 15 unless there is reason to suspect alcohol or drug use. It also extends the provision that says it does not apply when the death occurs 24 hours after an accident to 48 hours after the accident.

## **3. Argument in Support**

The Auto Club of Southern California and AAA Northern California, Nevada, and Utah (AAA Clubs) support this bill stating:

In California's post -Proposition 64 era – it is important to recognize a separate AAA Foundation for Traffic Safety finding that fatal crashes involving drivers who recently used marijuana doubled in Washington after that state legalized the drug. Combined with a growth in the national opioid epidemic, data to better understand the impact of drug-impaired driving in California is more important now than ever before.

The AAA Clubs have a long history of advocating traffic safety policies to keep road users safe. While we support vigorous enforcement of laws against DUI and DUIDs, the effectiveness of those laws is entirely predicated on meaningful data and evidence-based policies. SB 925 will help gather the vital information needed by law enforcement effectively addresses impaired driving in a modern context where alcohol alone is no longer the preeminent threat.

**-- END --**