

## I. FIRST DUI OFFENSE VEHICLE CODE § 23152

### VC § 23536 WITHOUT PROBATION

**Jail:** 96 hours to 6 months (48 hours are continuous unless it interferes with work)

**Fine:** \$390 to \$1,000 plus assessment.

**Treatment:** None required; however, DMV will not reinstate license until proof of completion of a treatment program is received at its headquarters. VC§ 13352(a)(1).

**License:** DMV will impose a 6-month suspension. VC § 13352(a)(1). Defendant must surrender license to court.

**CAVEAT:** The defendant may seek a restricted license from the DMV if certain requirements are met, including submitting proof of enrollment or completion of a treatment program, proof of financial responsibility, and payment of specified fees. VC §13352.4. However, if the court determines that the person would present a traffic safety or public safety risk if authorized to drive during the suspension period, the court may disallow the issuance of a restricted license. VC 23536(d).

### VC § 23538 WITH PROBATION - (See also, VC § 23600)

**Jail:** May impose 48 hours to 6 months. VC § 23538(a)(1).

**Fine:** \$390 to \$1,000 plus assessment.

**Treatment:** Completion of a 3-month treatment program. However, if the defendant has a blood-alcohol content of .20 percent or more, or refused a chemical test at arrest, a 9-month treatment program is required. The court must advise the defendant that the driving privilege will not be restored until proof of successful completion of a program is received at the DMV's headquarters. . VC § 23538(b)(2).

**License:** DMV will impose a 6-month suspension. VC § 13352(a)(1). Defendant must surrender license to court.

**CAVEAT:** The defendant may seek a restricted license from the DMV if he submits proof of enrollment or completion of a treatment program, proof of financial responsibility, and payment of specified fees. VC §13352.4. However, if the court determines that the person would present a traffic safety or public safety risk if authorized to drive during the suspension period, the court may disallow the issuance of a restricted license, VC § 23538(a)(3).

**CAVEAT:** VC § 23578: In addition to any other provision of this code, if a person is convicted of a violation of Section 23152 or 23153, the court shall consider a concentration of alcohol in the person's blood of 0.15 percent or more, by weight, or the refusal of the person to take a chemical test, as a special factor that may justify enhancing the penalties in sentencing, in determining whether to grant probation, and, if probation is granted, in determining additional or enhanced terms and conditions of probation.

### **Miscellaneous Penalties**

**Restitution:** Restitution fine of \$100 - \$1,000 and restitution to victim(s) or Restitution Fund. PC § 1202.4.

**Impound:** May order vehicle impounded for up to 30 days. (Defendant must be the registered owner of the vehicle used in the offense.) VC § 23594.

**IID:** May require that the defendant install an ignition interlock device for a period not to exceed 3 years. The court must give heightened consideration to an IID order if the defendants BAC was .20 % or more, if the defendant refused a chemical test at arrest, or if he or she has two or more prior moving traffic violations. VC § 23575.

### **Enhancements**

**Refusal:** 48 hours in county jail is mandatory, if probation is imposed. VC §23577. In addition, the DMV will prohibit a driver of a commercial vehicle from operating a commercial vehicle for one year upon a first refusal, or ever again for a second or subsequent refusal. VC § 15300(a)(9), 15302(1).

**Commercial Vehicle:** The DMV will prohibit a driver of a commercial vehicle from operating a commercial vehicle for one year. VC § 15300(a)(1) and (2).

**Defendant: (13 -21 years)** The court shall order an additional 1-year suspension or delay in issuance of license. Exception based on critical need to drive. VC §13202.5.

**Defendant: (Under 18 years, Juvenile Court)** DMV shall revoke license (a) until person turns 18, (b) for one year, or (c) for the duration of any restriction, suspension, or revocation as specified in VC § 13352(a), whichever is longer. VC § 13352.3.

**Minor Passenger: (Under 14 years)** 48 continuous hours in county jail, whether or not probation is imposed. VC § 23572.

**Excessive Speed:** Additional and consecutive 60 days in jail if defendant's speed exceeds the posted speed limit by 30 or more miles per hour on a freeway, or 20 or more miles per hour on any other street or highway and the driving is reckless under VC § 23103. Treatment program is required if probation is not granted. VC § 23582.

**Prior Felony Conviction(s):** Driver's license will be revoked by the DMV for four years pursuant to VC § 23550,5 if any prior felony convictions are for a violation of VC §23152, 23153 or PC § 191.5 or 192(c)(1) or (3) within 10 years.

**Prior DUI Conviction  
More than 10 Years  
Ago, or PC § 647(t)  
Conviction** Defendant must be ordered into an alcohol or drug problem assessment program. If the program assessment recommends additional treatment, the court may order 18-month or 30-month program. VC § 23646(b)(3).

**II. SECOND DUI OFFENSE IN 10 YEARS VEHICLE CODE**  
**§ 23152**

**VC § 23540 WITHOUT PROBATION**

**Jail:** 90 days to 1 year.

**Fine:** \$390 to \$1,000 plus assessment.

**Treatment:** None required; however, DMV will not reinstate license until proof of completion of a treatment program is received at its headquarters. VC § 13352(a)(3).

**License:** DMV will impose a 2-year suspension. VC § 13352(a)(3).  
Defendant must surrender license to court.

**CAVEAT:** The defendant may seek a restricted license from the DMV if certain requirements are met, including completion of at least 12 months of the suspension period, submitting proof of enrollment or completion of a treatment program, proof of financial responsibility, and payment of specified fees. VC § 13352.5. However, if the court determines that the person would present a traffic safety or public safety risk if authorized to drive during the suspension period, the court may disallow the issuance of a restricted license. VC § 23540(b).

**CAVEAT:** VC §23578; In addition to any other provision of this code, if a person is convicted of a violation of Section 23152 or 23153, the court shall consider a concentration of alcohol in the person's blood of 0.15 percent or more, by weight, or the refusal of the person to take a chemical test, as a special factor that may justify enhancing the penalties in sentencing, in determining whether to grant probation, and, if probation is granted, in determining additional or enhanced terms and conditions of probation.

**VC § 23540 WITH PROBATION** (See also, VC § 23600)

**Jail:** 10 days to 1 year, or 96 hours to 1 year (96-hour term must be served in two continuous 48-hour periods; 96 hours required if refusal to submit to test VC § 23577).

**Fine:** \$390 to \$1,000 plus assessment.

**Treatment:** Completion of an 18 (or 30) month treatment program. The court must advise the defendant that the driving privilege will not be restored until proof of successful completion of a program is received at the DMV's headquarters.

**License:** DMV will impose a 2-year suspension. VC § 13352(a)(3). Defendant must surrender license to court.

**Note:** The defendant may seek a restricted license from the DMV if certain requirements are met, including completion of at least 12 months of the SB 38 Program, proof of financial responsibility, and payment of specified fees. VC § 13352.5. However, if the court determines that the person would present a traffic safety or public safety risk if authorized to drive during the suspension period, the court may disallow the issuance of a restricted license. VC § 23540(b).

### **Miscellaneous Penalties**

**Restitution:** Restitution fine of \$100 to \$1,000, and restitution to victim(s) or Restitution Fund. PC § 1202.4.

**Impound:** Must order the vehicle impounded for up to 30 days if the offense occurred within 5 years of a prior Dill conviction, unless "interests of justice" exception is found. (Defendant must be the registered owner of the vehicle used in the offense.) VC § 23594.

**IID:** May order installation of an ignition interlock device as a condition of probation. VC § 23575(1). (Note - DMV will notify the defendant of the possibility of requesting an IID to get a restricted license after 12 months of the suspension period. See VC § 13352(a)(3).)

### **Enhancements**

**Refusal:** 96 hours in county jail, whether or not probation is imposed. VC §23577. In addition, the DMV will prohibit a driver of a commercial vehicle from operating a commercial vehicle for one year upon a first refusal, or ever again for a second or subsequent refusal. VC § §15300(a)(9), 15302(i).

**Commercial Vehicle:** The DMV will prohibit a driver of a commercial vehicle from operating a commercial vehicle ever again if he or she is convicted of a second or subsequent DUI

violation. VC § 15302(a) and (b).

**Defendant:  
(13 - 21 years)**

The court shall order an additional 1-year suspension or delay in issuance of license. Exception based on critical need to drive, VC13202.5.

**Defendant:  
(Under 18 years, Juvenile Court)**

DMV shall revoke license (a) until person turns 18, (b) for one year, or (c) for the duration of any restriction, suspension, or revocation as specified in VC § 13352(a), whichever is longer. VC § 13352.3.

**Minor Passenger:  
(Under 14 years)**

10 days in county jail, whether or not probation is imposed. VC §23572.

**Excessive Speed:**

Additional and consecutive 60 days in jail if defendant's speed exceeds the posted speed limit by 30 or more miles per hour on a freeway, or 20 or more miles per hour on any other street or highway. VC § 23582 and the driving is reckless under VC §23103. Treatment program required if probation not granted, VC §23582.

**Prior Felony  
Conviction(s):**

Driver's license will be revoked by the DMV for four years pursuant VC § 23550.5 if prior felony convictions are for violation of VC § 23152, 23153 or PC § 191.5 or 192(c)(1) or (3) within 10 years.

**Prior DUI Conviction  
More than 10 Years  
Ago, or PC § 647(f)  
Conviction**

Defendant must be ordered into an alcohol or drug problem assessment program. VC § 23646(b)(3)(A).

### **III. THIRD DUI OFFENSE IN 10 YEARS VEHICLE CODE § 23152**

#### **VC § 23546 WITHOUT PROBATION**

**Jail:** 120 days to 1 year.

**Fine:** \$390 to \$1,000 plus assessment.

**Treatment:** None required; however, DMV will not reinstate license until proof of completion of a treatment program is received at its headquarters. VC § 13352(a)(5).

**License:** DMV will impose a 3-year revocation. VC § 13352(a)(5). Defendant must surrender license to court.

**CAVEAT:** VC §23578: In addition to any other provision of this code, if a person is convicted of a violation of Section 23152 or 23153, the court shall consider a concentration of alcohol in the person's blood of 0.15 percent or more, by weight, or the refusal of the person to take a chemical test, as a special factor that may justify enhancing the penalties in sentencing, in determining whether to grant probation, and, if probation is granted, in determining additional or enhanced terms and conditions of probation.

**VC § 23548 WITH PROBATION** (See also, VC § 23600)

**Jail:** 120 days to 1 year.

**Fine:** \$390 to \$1,000 plus assessment.

**Treatment:** Must order completion of an 18-month program if one was not previously completed and if a 30-month program is not ordered. May order a 30-month program, which will result in a 30-day to 1-year jail term instead of the jail term specified above. The court must advise the defendant that the driving privilege will not be restored until proof of successful completion of a program is received at DMV in Sacramento.

**License:** DMV will impose a 3-year revocation. VC § 13352(a)(5). Defendant must surrender license to court.

**Miscellaneous Penalties**

**Restitution:** Restitution fine of \$100 to \$1,000 and restitution to victim(s) or Restitution Fund. PC § 1202.4.

**Impound:** Must order the vehicle impounded for up to 90 days if offense is within 5 years of 2 or more prior DUI convictions, unless “interest of justice” exception applies. VC §23594. May order forfeiture of vehicle. VC § 23596. (Defendant must be the registered owner of the vehicle used in the offense.)

**IID:** May order installation of an ignition interlock device as a condition of probation. VC § 23575(1). (CAVEAT - DMV will notify the defendant of the possibility of requesting an IID to get a restricted license after 18 months of the revocation period. See ye § 13352(a)(5).)

**Habitual Traffic Offender:** Must designate defendant as an habitual traffic offender for 3 years. VC § 13350(b), 14601.3(e)(3).

**Enhancements**

**Refusal:** 10 days in county jail, whether or not probation is imposed. VC §23577, In addition, the DMV will prohibit a driver of a commercial vehicle from operating a commercial vehicle for one year upon a first refusal, or ever again for a second or subsequent refusal. VC§15300(s)(9), 15302(i).

**Commercial Vehicle:** The DMV will prohibit a driver of a commercial vehicle operating a commercial vehicle ever again if he or she is convicted of a second or subsequent DUI violation. VC § 15302(a) and (b).

**Defendant:  
(13 - 21 years)** The court shall order an additional 1-year suspension or delay in issuance of license. Exception based on critical need to drive. VC §13202.5.

**Defendant:  
(Under 18 years, Juvenile Court)** DMV shall revoke license (a) until person turns 18, (b) for one year, or (c) for the duration of any restriction, suspension, or revocation as specified in VC § 13352(a), whichever is longer. VC §13352.3.

<b>Minor Passenger: (Under 14 years)</b>	<b>30 days in county jail, whether or not probation is imposed. VC §23572.</b>
<b>Excessive Speed:</b>	<b>Additional and consecutive 60 days in jail if defendant's speed exceeds the posted speed limit by 30 or more miles per hour on a freeway, or 20 or more miles per hour on any other street or highway. VC § 23582 and the driving was reckless under VC §23103.</b>
<b>Prior Felony Conviction(s):</b>	<b>Driver's license will be revoked by the DMV for four years pursuant to VC § 23550.5 if prior felony convictions are for violation of VC §23152, 23153 or PC § 191.5 or 192(c)(1) or (3) within 10 years.</b>
<b>Prior DUI Conviction More than 10 Years Ago, or PC § 647(0) Conviction</b>	<b>Defendant must be ordered into an alcohol or drug problem assessment program. VC § 23646(b)(3)(A).</b>

**IV. FOURTH OR SUBSEQUENT DUI OFFENSE IN 10 YEARS**  
**VEHICLE CODE § 23152**

**VC § 23550 WITHOUT PROBATION**

<b>Felony:</b>	<b>16 months or 2 or 3 years in state prison. PC § 18.</b>
<b>Misdemeanor:</b>	<b>180 days to 1 year in county jail.</b>
<b>Fine:</b>	<b>\$390 to \$1,000 plus assessment.</b>
<b>Treatment:</b>	<b>None required; however, DMV will not reinstate license until proof of completion of a treatment program is received at its headquarters. VC § 13352(a)(7).</b>
<b>License:</b>	<b>DMV will impose a 4-year revocation. VC § 13352(a)(7). Defendant must surrender license to court.</b>

**VC § 23552 WITH PROBATION** (See also, VC § 23600)

**Jail:** 180 days to 1 year.

**Fine:** \$390 to \$1,000 plus assessment.

**Treatment:** Must order 18-month program if one was not previously completed and if 30-month program not ordered. May order a 30-month program, which results in a 30-day to 1-year jail term instead of the jail term specified above. The court must advise the defendant that the driving privilege will not be restored until proof of successful completion of a program is received at the DMV's headquarters.

**License:** DMV will impose a 4-year revocation. VC § 13352(a)(7).  
Defendant must surrender license to court

**CAVEAT:** VC §23578: In addition to any other provision of this code, if a person is convicted of a violation of Section 23152 or 23153, the court shall consider a concentration of alcohol in the person's blood of 0.15 percent or more, by weight, or the refusal of the person to take a chemical test, as a special factor that may justify enhancing the penalties in sentencing, in determining whether to grant probation, and, if probation is granted, in determining additional or enhanced terms and conditions of probation.

**Miscellaneous Penalties**

**Restitution:** Restitution fine of \$100 to \$1,000 for misdemeanor; \$200 to \$10,000 for felony; and restitution to victim(s) or Restitution Fund. PC § 1202.4.

**Impound:** Must order the vehicle impounded for up to 90 days if offense is within 5 years of 2 or more prior DUI convictions, unless "interest of justice" exception applies. VC§ 23594. May order forfeiture of vehicle. VC § 23596. (Defendant must be the registered owner of the vehicle used in the offense)

**IID:** May order installation of an ignition interlock device as a condition of probation. VC § 23575(1). (Note - DMV will notify the defendant of the possibility of requesting an IID to get a restricted license after 24 months of the revocation period. See VC § 13352(a)(7).)

**Habitual Traffic  
Offender:**

**Must designate defendant as an habitual traffic offender for 3 years. VC § 13350(b), 14601.3(e)(3).**

**Enhancements**

**Refusal:**

**18 days in county jail, whether or not probation is granted. VC § 23577. In addition, the DMV will prohibit a driver of a commercial vehicle from operating a commercial vehicle for one year upon a first refusal, or ever again for a second or subsequent refusal. VC § 15300(a)(9), 15302(i).**

**Commercial Vehicle:**

**The DMV will prohibit a driver of a commercial vehicle from operating a commercial vehicle ever again if he or she is convicted of a second or subsequent DUI violation. VS § 15302(a) and (b).**

**Defendant:**

**(13 - 21 years)**

**The court shall order an additional 1-year suspension or delay in issuance of license. Exception based on critical need to drive. VC §13202.5.**

**Defendant:**

**(Under 18 years, Juvenile Court)**

**DMV shall revoke license (a) until person turns 18, (b) for one year, or (c) for the duration of any restriction, suspension, or revocation as specified in VC § 13352(a), whichever is longer. VC § 13352.3.**

**Minor Passenger:**

**(Under 14 years)**

**Upon misdemeanor conviction, 90 days in county jail whether or not probation is imposed. VC § 23572.**

**Excessive Speed:**

**Additional and consecutive 60 days in jail if defendant's speed exceeds the posted speed limit by 30 or more miles per hour on a freeway, or 20 or more miles per hour on any other street or highway. VC § 23582 and driving is reckless under VC §23103.**

**Prior Felony**

**Conviction(s):**

**Driver's license will be revoked by the DMV for four years pursuant to VC § 23550.5 if prior felony convictions are for violation of VC § 23152, 23153 or PC § 191.5 or 192(c)(1) or (3) within 10 years.**

**Prior DUI Conviction  
More than 10 Years  
Ago, or PC § 647(f)  
Conviction**

**Defendant must be ordered into an alcohol or drug  
problem assessment program. VC § 23646(b)(3)(A).**

**V. FIRST OFFENSE DUI WITH INJURIES IN 10 YEARS**  
**VEHICLE CODE § 23153**

**VC § 23554 WITHOUT PROBATION**

**Felony: 16 months or 2 or 3 years in state prison. PC§ 18.**

**Misdemeanor: 90 days to 1 year in county jail.**

**Fine: \$390 to \$1,000 plus assessment.**

**Treatment: None required; however, DMV will not reinstate license until proof of completion of a treatment program is received at its headquarters.**

**License: DMV will impose a 1-year suspension. VC § 13352(a)(2).  
Defendant must surrender license to court.**

**VC § 23556 WITH PROBATION (See also, VC § 23600)**

**Jail: 5 days to 1 year.**

**Fine: \$390 to \$1,000 plus assessment.**

**Treatment: Completion of a 3-month treatment program. However, if the defendant has a blood-alcohol content of .20 percent or more, or refused a chemical test at arrest, a 9-month treatment program is required. The court must advise the defendant that the driving privilege will not be restored until proof of successful completion of a program is received at the DMV's headquarters.**

**License: DMV will impose a 1-year suspension. VC § 13352(a)(2).  
Defendant must surrender license to court.**

**CAVEAT:** VC §23578: In addition to any other provision of this code, if a person is convicted of a violation of Section 23152 or 23153, the court shall consider a concentration of alcohol in the person's blood of 0.15 percent or more, by weight, or the refusal of the person to take a chemical test, as a special factor that may justify enhancing the penalties in sentencing, in determining whether to grant probation, and, if probation is granted, in determining additional or enhanced terms and conditions of probation.

### **Miscellaneous Penalties**

**Restitution:** Restitution fine of \$100 to \$1,000 for misdemeanors; \$200 to \$10,000 for felonies; and restitution to victim(s) or Restitution Fund. PC § 1202.4.

**Impound:** May impound vehicle up to 30 days. (Defendant must be the registered owner of the vehicle used in the offense.) VC § 23594.

**IID:** May require that the defendant install an ignition interlock device for a period not to exceed 3 years. The court must give heightened consideration to an IID order if the defendant's BAC was .20 % or more, if the defendant refused a chemical test at arrest, or if he or she has two or more prior moving traffic violations. VC § 23575.

### **Enhancements**

**Refusal:** 48 continuous hours in county jail, whether or not probation is granted. VC § 23577. In addition, the DMV will prohibit a driver of a commercial vehicle from operating a commercial vehicle for one year upon a first refusal, or ever again for a second or subsequent refusal. VC § 15300(a)(9), 15302(i).

**Commercial Vehicle:** The DMV will prohibit a driver of a commercial vehicle from operating a commercial vehicle for one year if convicted of a first DUI violation. VC § 15300(a)(3) & (4).

**Multiple Victims:** On felony conviction, 1 year in state prison per additional victim, 3-year maximum. Victim = bodily injury or death. VC § 23558 or PC § 12022.7 GBI allegation



**Fine:** \$390 to \$5,000 plus assessment.

**Treatment:** None required; however, DMV will not reinstate license until proof of completion of a treatment program is received at its headquarters.

**License:** DMV will impose a 3-year suspension. VC § 13352(a)(4).  
Defendant must surrender license to court.

**VC § 23562 WITH PROBATION** (See also, VC § 23600)

**Option A**

**Jail:** A minimum of 120 days.

**Fine:** \$390 to \$5,000 plus assessment.

**Treatment:** None required; however, DMV will not reinstate license until proof of completion of a treatment program is received at its headquarters. VC §13352(a)(4).

**License:** DMV will impose a 3-year revocation. VC § 13352(a)(4).  
Defendant must surrender license to court.

**Option B**

**Jail:** 30 days to 1 year.

**Fine:** \$390 to \$1,000 plus assessment.

**Treatment:** Completion of an 18 (or 30)-month treatment program. The court must advise the defendant that the driving privilege will not be restored until proof of successful completion of a program is received at the DMV's headquarters

**License:** DMV will impose a 3-year revocation. VC § 13352(a)(4).  
Defendant must surrender license to court.

**CAVEAT:** VC §23578: In addition to any other provision of this code, if a person is convicted of a violation of Section 23152 or 23153, the court shall consider a concentration of alcohol in the person's blood of 0.15 percent or more, by weight, or the refusal of the person to take a chemical test, as a special factor that may justify enhancing the penalties in sentencing, in determining whether to grant probation, and, if probation is granted, in determining additional or enhanced terms and conditions of probation.

### **Miscellaneous Penalties**

**Restitution:** Restitution fine of \$100 to \$1,000 for misdemeanors; \$200 to \$10,000 for felonies; and restitution to victim(s) or Restitution Fund. PC § 12024.

**Impound:** Must order the vehicle impounded for up to 30 days if offense is within 5 years of 2 or more prior DUI convictions, unless 'interest of justice' exception applies. VC § 23594. May order forfeiture of vehicle. VC § 23596. (Defendant must be the registered owner of the vehicle used in the offense.)

**IID:** May order installation of an ignition interlock device as a condition of probation. VC § 23575(1). (CAVEAT - DMV will notify the defendant of the possibility of requesting an IID to get a restricted license after 18 months of the revocation period. See VC § 13352(a)(4).)

### **Enhancements**

**Refusal:** 96 hours in county jail, whether or not probation is granted. VC § 23577. In addition, the DMV will prohibit a driver of a commercial vehicle from operating a commercial vehicle for one year upon a first refusal, or ever again for a second or subsequent refusal. VC § § 15300(a)(9), 15302(i)

**Commercial Vehicle:** The DMV will prohibit a driver of a commercial vehicle from operating a commercial vehicle ever again if he or she is convicted of a second or subsequent DUI violation. VC § 15302(c) and (d).

**Multiple Victims:** On felony conviction, 1 year in state prison per additional victim, 3- year maximum. Victim = bodily injury or death. VC § 23558.

**Defendant:**  
**(13 - 21 years)**                      **The court shall order an additional 1-year suspension or delay in issuance of license. Exception based on critical need to drive. VC § 13202.5.**

**Defendant:**  
**(Under 18 years, Juvenile Court)**                      **DMV shall revoke license until person turns 18, for one year, or for the duration of any restriction, suspension, or revocation as specified in VC § 13352(a), whichever is longer. VC § 13352.3.**

**Excessive Speed:**                      **Additional and consecutive 60 days in jail if defendant's speed exceeds the posted speed limit by 30 or more miles per hour on a freeway or 20 or more miles per hour on any other street or highway and driving is reckless under VC § 23103. Treatment program required if probation not granted VC §23582.**

**Prior Felony Conviction(s):**                      **Driver's license will be revoked by the DMV for four years pursuant to VC § 23550.5 if prior felony convictions are for violation of VC § 23152, 23153 or PC § 191.5 or 192(c)(1) or (3) within 10 years.**

**Prior Dill Conviction More than 10 Years Ago, or PC § 647(f) Conviction**                      **Defendant must be ordered into an alcohol or drug problem assessment program. VC § 23646(b)(3)(A).**

**VII. THIRD OR SUBSEQUENT DUI OFFENSE WITH INJURIES IN 10 YEARS VEHICLE CODE § 23153**

**VC § 23566 WITHOUT PROBATION**

**Prison:**                      **2, 3, or 4 years in state prison. An additional and consecutive 3 years in state prison if offense results in a fifth or subsequent VC §§ 23152/23153 conviction and offense caused great bodily injury to another person.**

**Fine:**                      **\$1,015 to \$5,000 plus assessment.**

**Treatment:** None required (unless defendant is sentenced to a state prison which has a treatment program); DMV will not reinstate license until proof of completion of a licensed treatment program is received at its headquarters. VC § 13352(a)(6).

**License:** DMV will impose a 5-year revocation, VC § 13352(a)(6). Defendant must surrender license to court.

**VC § 23568 WITH PROBATION** (See also, VC § 23600)

**Jail:** A minimum of 1 year in jail (or a minimum of 30 days if a 30-month program ordered). See VC § 23568(a) and (b).

**Fine:** \$390 to \$5,000 plus assessment.

**Treatment:** Completion of an 18-month (or 30-month) program. The court must advise the defendant that the driving privilege will not be restored until proof of successful completion of a program is received at the DMV's headquarters.

**License:** DMV will impose a 5-year revocation. VC § 13352(a)(6). Defendant must surrender license to court.

**CAVEAT:** VC §23578: In addition to any other provision of this code, if a person is convicted of a violation of Section 23152 or 23153, the court shall consider a concentration of alcohol in the person's blood of 0.15 percent or more, by weight, or the refusal of the person to take a chemical test, as a special factor that may justify enhancing the penalties in sentencing, in determining whether to grant probation, and, if probation is granted, in determining additional or enhanced terms and conditions of probation.

**Miscellaneous Penalties**

**Restitution:** Restitution fine of \$200 to \$10,000 and restitution to victim(s) or Restitution Fund. PS § 1202.4.

**Impound:** Must order the vehicle impounded for up to 90 days if offense is within 5 years of 2 or more prior DUI convictions, unless "interest of justice" exception applies. VC § 23594. May order forfeiture of vehicle. VC § 23596, (Defendant must be the registered owner of the vehicle used in the offense.)

**IID:** May order installation of an ignition interlock device as a condition of probation. VC § 23575(1). (CAVEAT - DMV will notify the defendant of the possibility of requesting an IID to get a restricted license after 30 months of the revocation period. See VC § 13352(a)(6).)

**Habitual  
Traffic**

**Offender:** Must designate defendant as an habitual traffic offender for 3 years. VC § § 13350(b), 14601.3(e)(3).

### Enhancements

**Refusal:** None specified. VC § 23577, However, the DMV will prohibit a driver of a commercial vehicle from operating a commercial vehicle for one year upon a first refusal, or ever again for a second or subsequent refusal, VC § § 15300(a)(9), 15302(i).

**Commercial Vehicle:** The DMV will prohibit a driver of a commercial vehicle from operating a commercial vehicle ever again if he or she is convicted of a second or subsequent Dill violation. VC § 15302(c) and (d).

**Multiple Victims:** On felony conviction, 1 year in state prison per additional victim; 3-year maximum. Victim = bodily injury or death. VC § 23558.

**Defendant:  
(13 -21 years)** The court shall order an additional 1- year suspension or delay in issuance of license. Exception based on critical need to drive. VC §13202 .5.

**Defendant:  
(Under 18 years, Juvenile Court)** DMV shall revoke license (a) until person turns 18, (b) for one year, or (c) for the duration of any restriction, suspension, or revocation as specified in VC § 13352(a), whichever is longer, VC § 13352.3.

**Excessive Speed:** Additional and consecutive 60 days in jail if defendant's speed exceeds the posted speed limit by 30 or more miles per hour on a freeway or 20 or more miles per hour on any other street or highway and driving is

reckless under VC § 23103. Treatment program is required if probation not granted VC§23582.

**Prior Felony  
Conviction(s):**

Driver's license will be revoked by the DMV for four years pursuant to VC § 23550.5 if prior felony convictions are for violation of VC §23152, 23153 or PC § 191.5 or 192(c)(1) or (3) within 10 years.

**More than 10 Years  
Ago, or PC § 647(f)  
Conviction**

Defendant must be ordered into an alcohol or drug problem assessment program. VC § 23646(b)(3)(A).

### **VIII. VEHICLE CODE § 23550.5 DUI WITH PRIOR FELONY CONVICTION**

This offense involves a conviction for a violation of VC § 23152 or 23153 with a prior felony conviction. For purposes of section 23550.5, a "prior felony conviction" includes:

- (1) a previous conviction within 10 years of either a violation of:  
  
VC § 23152 (punished as a felony),  
VC § 23153 (punished as a felony), or  
PC § 192(c)(1) (punished as a felony);
- (2) or a conviction at any prior time of either a violation of:  
  
PC § 191.5, or  
PC § 192(c)(3) (punished as a felony).

### **VC § 23550.5 WITHOUT PROBATION**

**Felony:** 16 months, or two or three years in state prison. PC § 18.

**Misdemeanor:** Not more than one year in jail.

**Fine:** \$390 to \$1,000 plus assessment.

**Treatment:** None required; however, DMV will not reinstate license until proof of completion of a treatment program is received at its headquarters. VC § 13352(a)(7).

**License:** DMV will impose a 4-year revocation. VC § 13352(a)(7). However, if third or subsequent VC § 23153 violation, a 5-year revocation will be imposed by the DMV. VC § § 23566, 23568. Defendant must surrender license to court.

**VC § 23550.5 WITH PROBATION** (See also, VC § 23600)

**Felony:** Up to three years in state prison.

**Misdemeanor:** Up to one year in jail.

**Fine:** Up to \$1,000 plus assessment.

**Treatment:** None required; however, DMV will not reinstate license until proof of completion of a treatment program is received at its headquarters. VC § 13352(a)(7).

**License:** DMV will impose a 4-year revocation. VC § 13352(a)(7). However, if third or subsequent VC § 23153 violation, a 5-year revocation will be imposed by the DMV. VC § 23566, 23568. Defendant must surrender license to court.

**CAVEAT:** VC §23578: In addition to any other provision of this code, if a person is convicted of a violation of Section 23152 or 23153, the court shall consider a concentration of alcohol in the person's blood of 0.15 percent or more, by weight, or the refusal of the person to take a chemical test, as a special factor that may justify enhancing the penalties in sentencing, in determining whether to grant probation, and, if probation is granted, in determining additional or enhanced terms and conditions of probation.

**Miscellaneous Penalties**

**Restitution:** Restitution fine of \$100 to \$1,000 for misdemeanors; \$200 to \$10,000 for felonies, and restitution to victim(s) or Restitution Fund. PC § 1202.4.

**IID:** May order installation of an ignition interlock device as a condition of probation. VC § 23575(1).

**Habitual Traffic Offender:** Must designate defendant as an habitual traffic offender for 3 years. VC § § 13350(b), 14601.3(e)(3).

## **Enhancements**

**Refusal:** 18 days in jail, whether or not probation is imposed. VC § 23577(a)(5). In addition, the DMV will prohibit a driver of a commercial vehicle from operating a commercial vehicle for one year upon a first refusal, or ever again for a second or subsequent refusal. VC § § 15300(a)(9), 15302(i).

**Commercial Vehicle:** The DMV will prohibit a driver of a commercial vehicle from operating a commercial vehicle ever again if he or she is convicted of a second or subsequent DUI violation. VC § 15302(a)-(d).

**Defendant:**  
**(13 -21 years)** The court shall order an additional 1-year suspension or delay in issuance of license. Exception based on critical need to drive. VC §13202.5.

**Defendant:**  
**(Under 18 years, Juvenile Court)** DMV shall revoke license (a) until person turns 18, (b) for one year, or (c) for the duration of any restriction, suspension, or revocation as specified in VC § 13352(a), whichever is longer. VC§ 13352.3.

**Excessive Speed:** Additional and consecutive 60 days in jail if defendant's speed exceeds the posted speed limit by 30 or more miles per hour on a freeway or 20 or more miles per hour on any other street or highway and driving is reckless under VC § 23103. Treatment program required if probation not granted VC §23582.