

ASSEMBLY BILL

No. 986

Introduced by Assembly Member Mendoza

February 27, 2009

An act to amend Section 23109.2 of, and to add Section 9250.3 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 986, as introduced, Mendoza. Vehicles: motor vehicle speed contests.

Existing law allows a peace officer to arrest and take into custody a person that a peace officer determines was engaged in a motor vehicle speed contest and permits the peace officer to cause the removal and seizure of the motor vehicle used in the contest, in accordance with specified statutory procedures. A vehicle impounded under these provisions is required to be impounded for not more than 30 days, with specified exceptions. Existing law permits the release of the motor vehicle prior to the end of the impoundment period in specified circumstances. The registered owner or his or her agent is responsible for, among other things, all towing and storage charges related to the impoundment and any authorized administrative charges, except under specified circumstances.

This bill would instead require that the motor vehicle be impounded and inspected by the Department of the California Highway Patrol to determine whether the motor vehicle has been modified for speed enhancement beyond the manufacturer's original equipment specifications (OES). The bill would also require, beginning July 1, 2010, that an additional registration fee of \$30 be collected for a motor

vehicle so seized and that the motor vehicle be designated as speed enhanced on the certificate of registration for that motor vehicle.

The bill would create the Illegal Street Racing Abatement Account in the General Fund and would require that the moneys in that account, upon appropriation by the Legislature, be allocated to the Department of the California Highway Patrol and local law enforcement authorities to pay for the costs associated with the impoundment and inspection of motor vehicles seized as a result of illegal street racing.

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

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

1 SECTION 1. Section 9250.3 is added to the Vehicle Code, to
2 read:

3 9250.3. (a) Beginning July 1, 2010, the fee described in Section
4 9250 shall be increased by thirty dollars (\$30) for a motor vehicle
5 impounded pursuant to Section 23109.2 that is determined to have
6 been modified for speed enhancement beyond the manufacturer’s
7 original equipment specifications (OES). A motor vehicle subject
8 to the additional fee shall be designated as speed enhanced on the
9 certificate of registration for that vehicle.

10 (b) The additional fee authorized pursuant to subdivision (a)
11 shall be deposited into the Illegal Street Racing Abatement
12 Account, which is hereby created in the General Fund. Moneys in
13 that account, upon appropriation by the Legislature, shall be
14 allocated to the Department of the California Highway Patrol and
15 local law enforcement authorities to pay for the costs associated
16 with the impoundment and inspection of motor vehicles seized
17 pursuant to subdivision (a) of Section 23109.2.

18 SEC. 2. Section 23109.2 of the Vehicle Code is amended to
19 read:

20 23109.2. (a) (1) Whenever a peace officer determines that a
21 person was engaged in any of the activities set forth in paragraph
22 (2), the peace officer may immediately arrest and take into custody
23 that person and ~~may~~ shall cause the removal and seizure of the
24 motor vehicle used in that offense in accordance with Chapter 10
25 (commencing with Section 22650). A motor vehicle so seized ~~may~~
26 shall not be impounded for ~~not~~ more than 30 days and shall be
27 inspected pursuant to Section 9250.3 by the Department of the

1 *California Highway Patrol to determine whether the motor vehicle*
2 *has been modified for speed enhancement beyond the*
3 *manufacturer's original equipment specifications (OES).*

4 (2) (A) A motor vehicle speed contest, as described in
5 subdivision (a) of Section 23109.

6 (B) Reckless driving on a highway, as described in subdivision
7 (a) of Section 23103.

8 (C) Reckless driving in an offstreet parking facility, as described
9 in subdivision (b) of Section 23103.

10 (D) Exhibition of speed on a highway, as described in
11 subdivision (c) of Section 23109.

12 (b) The registered and legal owner of a vehicle removed and
13 seized under subdivision (a) or their agents shall be provided the
14 opportunity for a storage hearing to determine the validity of the
15 storage in accordance with Section 22852.

16 (c) (1) Notwithstanding Chapter 10 (commencing with Section
17 22650) or any other provision of law, an impounding agency shall
18 release a motor vehicle to the registered owner or his or her agent
19 prior to the conclusion of the impoundment period described in
20 subdivision (a) under any of the following circumstances:

21 (A) If the vehicle is a stolen vehicle.

22 (B) If the person alleged to have been engaged in the motor
23 vehicle speed contest, as described in subdivision (a), was not
24 authorized by the registered owner of the motor vehicle to operate
25 the motor vehicle at the time of the commission of the offense.

26 (C) If the registered owner of the vehicle was ~~neither~~ *not* the
27 driver ~~nor~~ *or* a passenger of the vehicle at the time of the alleged
28 violation pursuant to subdivision (a), or was unaware that the driver
29 was using the vehicle to engage in any of the activities described
30 in subdivision (a).

31 (D) If the legal owner or registered owner of the vehicle is a
32 rental car agency.

33 (E) If, prior to the conclusion of the impoundment period, a
34 citation or notice is dismissed under Section 40500, criminal
35 charges are not filed by the district attorney because of a lack of
36 evidence, or the charges are otherwise dismissed by the court.

37 (2) A vehicle shall be released pursuant to this subdivision only
38 if the registered owner or his or her agent presents a currently valid
39 driver's license to operate the vehicle and proof of current vehicle
40 registration, or if ordered by a court.

1 (3) If, pursuant to subparagraph (E) of paragraph (1), a motor
 2 vehicle is released prior to the conclusion of the impoundment
 3 period, ~~neither~~ the person charged with a violation of subdivision
 4 (a) of Section 23109 ~~nor~~ *and* the registered owner of the motor
 5 vehicle ~~is are not~~ responsible for towing and storage charges ~~nor~~
 6 ~~shall~~ *and* the motor vehicle *shall not* be sold to satisfy those
 7 charges.

8 (d) A vehicle seized and removed under subdivision (a) shall
 9 be released to the legal owner of the vehicle, or the legal owner's
 10 agent, on or before the 30th day of impoundment if all of the
 11 following conditions are met:

12 (1) The legal owner is a motor vehicle dealer, bank, credit union,
 13 acceptance corporation, or other licensed financial institution
 14 legally operating in this state, or is another person, not the
 15 registered owner, holding a security interest in the vehicle.

16 (2) The legal owner or the legal owner's agent pays all towing
 17 and storage fees related to the impoundment of the vehicle. ~~No~~ A
 18 lien sale processing fees shall *not* be charged to a legal owner who
 19 redeems the vehicle on or before the 15th day of impoundment.

20 (3) The legal owner or the legal owner's agent presents
 21 foreclosure documents or an affidavit of repossession for the
 22 vehicle.

23 (e) (1) The registered owner or his or her agent is responsible
 24 for all towing and storage charges related to the impoundment,
 25 and any administrative charges authorized under Section 22850.5.

26 (2) Notwithstanding paragraph (1), if the person convicted of
 27 engaging in the activities set forth in paragraph (2) of subdivision
 28 (a) was not authorized by the registered owner of the motor vehicle
 29 to operate the motor vehicle at the time of the commission of the
 30 offense, the court shall order the convicted person to reimburse
 31 the registered owner for any towing and storage charges related
 32 to the impoundment, and any administrative charges authorized
 33 under Section 22850.5 incurred by the registered owner to obtain
 34 possession of the vehicle, unless the court finds that the person
 35 convicted does not have the ability to pay all or part of those
 36 charges.

37 (3) If the vehicle is a rental vehicle, the rental car agency may
 38 require the person to whom the vehicle was rented to pay all towing
 39 and storage charges related to the impoundment and any
 40 administrative charges authorized under Section 22850.5 incurred

1 by the rental car agency in connection with obtaining possession
2 of the vehicle.

3 (4) The owner is not liable for any towing and storage charges
4 related to the impoundment if acquittal or dismissal occurs.

5 (5) The vehicle may not be sold prior to the defendant's
6 conviction.

7 (6) The impounding agency is responsible for the actual costs
8 incurred by the towing agency as a result of the impoundment
9 should the registered owner be absolved of liability for those
10 charges pursuant to paragraph (3) of subdivision (c).

11 Notwithstanding this provision, ~~nothing shall prohibit an~~
12 ~~impounding agencies~~ *agency is not prohibited* from making prior
13 payment arrangements to satisfy this requirement.

14 (f) Any period when a vehicle is subjected to storage under this
15 section shall be included as part of the period of impoundment
16 ordered by the court under subdivision (h) of Section 23109.