

Assembly Bill No. 353

Passed the Assembly September 2, 2011

Chief Clerk of the Assembly

Passed the Senate August 30, 2011

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 2814.1 of, and to add Sections 2814.2 and 14602 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 353, Cedillo. Vehicles: checkpoints.

(1) Existing law authorizes the board of supervisors of a county to establish, by ordinance, a combined vehicle inspection and sobriety checkpoint program to check for violations of motor vehicle exhaust standards and driving-under-the-influence (DUI) offenses.

Existing law authorizes a peace officer, whenever the peace officer determines, among other things, that a person was driving a vehicle without ever having been issued a driver's license, to immediately arrest that person and cause the removal and seizure of his or her vehicle for an impoundment period of 30 days, or, if the person is currently without a valid driver's license, to remove the vehicle for a shorter period of time upon issuance of a notice to appear if the registered owner or the registered owner's agent presents a currently valid driver's license and proof of current vehicle registration, or upon order of the court.

This bill would require the driver of a motor vehicle to stop and submit to a sobriety checkpoint inspection conducted by a law enforcement agency when signs and displays are posted requiring that stop.

The bill would, notwithstanding other provisions of law, require that a peace officer or any other authorized person not cause the impoundment of a vehicle at a sobriety checkpoint, established pursuant to these provisions or any other law, if the driver's only offense is, among other offenses, the failure to hold a valid driver's license. The bill would require, during the conduct of a sobriety checkpoint, a law enforcement officer to make a reasonable attempt to identify the registered owner of the vehicle in order to release the vehicle to the registered owner if he or she is a licensed driver or to a licensed driver authorized by the registered owner. The bill would require that if a notice to appear is issued, the name and driver's license number of the licensed driver to whom the vehicle

was released be listed on the officer's copy of the notice to appear issued to the unlicensed driver and would require if a vehicle cannot be released, that the vehicle be removed, as specified.

(2) Existing law authorizes a peace officer to either immediately arrest a person and cause the removal and seizure of the vehicle he or she was operating or, if the vehicle is involved in a traffic collision, cause the removal and seizure of the vehicle, without the necessity of arresting the person, if the peace officer determines that the person was driving the vehicle while his or her driving privilege was suspended or revoked or without having been issued a license.

Existing law subjects a vehicle to forfeiture as a nuisance if it is driven on a highway by a driver with a suspended or revoked license, or by an unlicensed driver, as specified. Existing law requires a vehicle to be impounded for at least 30 days if its driver is unable to produce a valid driver's license, except as specified.

The bill would require a vehicle removed pursuant to the provisions of the bill to be released to the registered owner of the vehicle, or the registered owner's agent, as specified, upon a showing of proof of a currently valid driver's license and vehicle registration.

Because this bill would expand the duties of local law enforcement officials and the scope of an existing DUI checkpoint program, this bill would impose a state-mandated local program. Because the failure to comply with these provisions would constitute an infraction under the Vehicle Code, the bill would also impose a state-mandated local program, by creating a new crime.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

SECTION 1. Section 2814.1 of the Vehicle Code is amended to read:

2814.1. (a) A board of supervisors of a county may, by ordinance, establish, on highways under its jurisdiction, a vehicle inspection checkpoint program to check for violations of Sections 27153 and 27153.5. The program shall be conducted by the local agency or department with the primary responsibility for traffic law enforcement.

(b) A driver of a motor vehicle shall stop and submit to an inspection conducted under subdivision (a) when signs and displays are posted requiring that stop.

(c) A county that elects to conduct the program described under subdivision (a) may fund that program through fine proceeds deposited with the county under Section 1463.15 of the Penal Code.

SEC. 2. Section 2814.2 is added to the Vehicle Code, to read:

2814.2. (a) A driver of a motor vehicle shall stop and submit to a sobriety checkpoint inspection conducted by a law enforcement agency when signs and displays are posted requiring that stop.

(b) Notwithstanding Section 14602.6 or 14607.6, a peace officer or any other authorized person shall not cause the impoundment of a vehicle at a sobriety checkpoint if the driver's only offense is a violation of Section 12500.

(c) During the conduct of a sobriety checkpoint, if the law enforcement officer encounters a driver who is in violation of Section 12500, the law enforcement officer shall make a reasonable attempt to identify the registered owner of the vehicle. If the registered owner is present, or the officer is able to identify the registered owner and obtain the registered owner's authorization to release the motor vehicle to a licensed driver by the end of the checkpoint, the vehicle shall be released to either the registered owner of the vehicle if he or she is a licensed driver or to the licensed driver authorized by the registered owner of the vehicle. If a notice to appear is issued, the name and driver's license number of the licensed driver to whom the vehicle was released pursuant to this subdivision shall be listed on the officer's copy of the notice to appear issued to the unlicensed driver. When a vehicle cannot be released, the vehicle shall be removed pursuant to subdivision

(p) of Section 22651, whether a notice to appear has been issued or not.

SEC. 3. Section 14602 is added to the Vehicle Code, to read:

14602. In accordance with subdivision (p) of Section 22651, a vehicle removed pursuant to subdivision (c) of Section 2814.2 shall be released to the registered owner or his or her agent at any time the facility to which the vehicle has been removed is open upon presentation of the registered owner's or his or her agent's currently valid driver's license to operate the vehicle and proof of current vehicle registration.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Approved _____, 2011

Governor