

AMENDED IN ASSEMBLY APRIL 26, 2011

AMENDED IN ASSEMBLY APRIL 6, 2011

AMENDED IN ASSEMBLY MARCH 24, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1323

**Introduced by Assembly Member Gatto
(Coauthor: Assembly Member Olsen)**

February 18, 2011

An act to amend Section 186.8 of the Penal Code, and to amend Section 9250.14 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1323, as amended, Gatto. Vehicles: vehicle theft crimes: investigative costs.

Existing law authorizes, until January 1, 2018, a county board of supervisors to adopt by resolution, in addition to the other fees imposed for the registration of a vehicle, with certain exceptions, an additional fee of \$1, and an additional service fee of \$2, on all commercial motor vehicles, and continuously appropriates the money to fund local programs relating to vehicle theft crimes and, additionally, in counties with a population of 250,000 *or less*, the prosecution of crimes involving driving while under the influence of alcohol or drugs, or both, or vehicular manslaughter or gross vehicular manslaughter, or any combination of those crimes.

~~This bill would authorize the court to impose on a person convicted of a felony or misdemeanor of any vehicle theft crime investigated pursuant to these provisions an additional penalty in an amount equal to all reasonable costs incurred by the investigating agency or agencies.~~

Existing law, the California Control of Profits of Organized Crime Act, provides that when a person is alleged to have been engaged in a pattern of criminal profiteering activity, upon conviction of the underlying offense, the property interests acquired through, and all proceeds of, a pattern of criminal profiteering activity are subject to forfeiture upon proof beyond a reasonable doubt that the defendant was engaged in that activity and that the property alleged in the petition comes within that description. Existing law specifies the distribution of that property to certain individuals, to specified governmental entities for expenditures made or incurred in connection with the sale of the property, and then to the general fund of the state or local governmental entity that prosecuted the case.

This bill would revise the latter provision to require, in a county that has adopted the resolution described above, in any case involving grand theft of an automobile, as specified, or the theft of a vehicle, as specified, which is prosecuted solely by a local entity and in which all expenditures made or incurred in connection with the sale of the property are made or incurred solely by a local entity, that, in lieu of the distribution to the local government general fund, the proceeds shall be deposited with the Controller for appropriation to fund programs that enhance the capacity of local police and prosecutors to deter, investigate, and prosecute vehicle theft crimes, as specified.

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

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

1 SECTION 1. Section 186.8 of the Penal Code is amended to
 2 read:

3 186.8. Notwithstanding that no response or claim has been
 4 filed pursuant to Section 186.5, in all cases where property is
 5 forfeited pursuant to this chapter and, if necessary, sold by the
 6 Department of General Services or local governmental entity, the
 7 money forfeited or the proceeds of sale shall be distributed by the
 8 state or local governmental entity as follows:

9 (a) To the bona fide or innocent purchaser, conditional sales
 10 vendor, or holder of a valid lien, mortgage, or security interest, if
 11 any, up to the amount of his or her interest in the property or
 12 proceeds, when the court declaring the forfeiture orders a
 13 distribution to that person. The court shall endeavor to discover

1 all those lienholders and protect their interests and may, at its
2 discretion, order the proceeds placed in escrow for up to an
3 additional 60 days to ensure that all valid claims are received and
4 processed.

5 (b) To the Department of General Services or local governmental
6 entity for all expenditures made or incurred by it in connection
7 with the sale of the property, including expenditures for any
8 necessary repairs, storage, or transportation of any property seized
9 under this chapter.

10 (c) To the general fund of the state or local governmental entity,
11 whichever prosecutes.

12 (d) In any case involving a violation of subdivision (b) of
13 Section 311.2, or Section 311.3 or 311.4, in lieu of the distribution
14 of the proceeds provided for by subdivisions (b) and (c), the
15 proceeds shall be deposited in the county children's trust fund,
16 established pursuant to Section 18966 of the Welfare and
17 Institutions Code, of the county that filed the petition of forfeiture.
18 If the county does not have a children's trust fund, the funds shall
19 be deposited in the State Children's Trust Fund, established
20 pursuant to Section 18969 of the Welfare and Institutions Code.

21 (e) In any case involving crimes against the state beverage
22 container recycling program, in lieu of the distribution of proceeds
23 provided in subdivision (c), the proceeds shall be deposited in the
24 penalty account established pursuant to subdivision (d) of Section
25 14580 of the Public Resources Code, except that a portion of the
26 proceeds equivalent to the cost of prosecution in the case shall be
27 distributed to the local prosecuting entity that filed the petition of
28 forfeiture.

29 (f) In any case involving human trafficking of minors for
30 purposes of prostitution or lewd conduct, or in any case involving
31 a violation of Section 266a in which the victim is a minor, in lieu
32 of the distribution provided for in subdivision (c), the proceeds
33 shall be deposited in the Victim-Witness Assistance Fund to be
34 available for appropriation to fund child sexual exploitation and
35 child sexual abuse victim counseling centers and prevention
36 programs under Section 13837. Fifty percent of the funds deposited
37 in the Victim-Witness Assistance Fund pursuant to this subdivision
38 shall be granted to community-based organizations that serve minor
39 victims of human trafficking.

1 (g) (1) In any case that meets all of the following criteria, in
 2 lieu of the distribution provided for in subdivisions (b) and (c),
 3 the proceeds shall be appropriated pursuant to Section 9250.14
 4 of the Vehicle Code to fund programs that enhance the capacity
 5 of local police and prosecutors to deter, investigate, and prosecute
 6 vehicle theft crimes:

7 (A) The case arises in a county that has adopted the resolution
 8 described in subdivision (a) of Section 9250.14 of the Vehicle
 9 Code.

10 (B) The case involves grand theft of an automobile, as described
 11 in paragraph (1) of subdivision (d) of Section 487 or the theft of
 12 a vehicle, as described in Section 10851 of the Vehicle Code.

13 (C) The case is prosecuted solely by a local entity, the sale of
 14 the property is made by the local entity, and all expenditures made
 15 or incurred in connection with the sale of the property, including
 16 expenditures for any necessary repairs, storage, or transportation
 17 of any property seized under this chapter, are made or incurred
 18 solely by a local entity.

19 (2) The proceeds described in paragraph (1) that are to be
 20 appropriated pursuant to Section 9250.14 of the Vehicle Code may
 21 not be expended for any purpose other the purposes described in
 22 paragraph (1) and may not be expended to offset a reduction in
 23 any other source of funds.

24 (3) The proceeds described in paragraph (1) shall be
 25 appropriated to the county where the local entity is located.

26 SEC. 2. Section 9250.14 of the Vehicle Code is amended to
 27 read:

28 9250.14. (a) (1) In addition to any other fees specified in this
 29 code and the Revenue and Taxation Code, upon the adoption of a
 30 resolution by any county board of supervisors, a fee of one dollar
 31 (\$1) shall be paid at the time of registration or renewal of
 32 registration of every vehicle, except vehicles described in
 33 subdivision (a) of Section 5014.1, registered to an address within
 34 that county except those expressly exempted from payment of
 35 registration fees. The fees, after deduction of the administrative
 36 costs incurred by the department in carrying out this section, shall
 37 be paid quarterly to the Controller.

38 (2) In addition to the one dollar (\$1) service fee, and upon the
 39 implementation of the permanent trailer identification plate
 40 program, and as part of the Commercial Vehicle Registration Act

1 of 2001, all commercial motor vehicles subject to Section 9400.1
2 registered to an owner with an address in the county that
3 established a service authority under this section, shall pay an
4 additional service fee of two dollars (\$2).

5 *(3) In any county that has adopted the resolution pursuant to*
6 *this subdivision the proceeds collected pursuant to subdivision (g)*
7 *of Section 186.8 of the Penal Code shall be deposited with the*
8 *Controller for disbursement to the county pursuant to Section*
9 *186.8 of the Penal Code.*

10 (b) Notwithstanding Section 13340 of the Government Code,
11 the money paid to the Controller is continuously appropriated,
12 without regard to fiscal years, for the administrative costs of the
13 Controller, and for disbursement by the Controller to each county
14 that has adopted a resolution pursuant to subdivision (a), based
15 upon the number of vehicles registered, or whose registration is
16 renewed, to an address within that county.

17 (c) Except as otherwise provided in this subdivision, money
18 allocated to a county pursuant to subdivision (b) shall be expended
19 exclusively to fund programs that enhance the capacity of local
20 police and prosecutors to deter, investigate, and prosecute vehicle
21 theft crimes. In any county with a population of 250,000 or less,
22 the money shall be expended exclusively for those vehicle theft
23 crime programs and for the prosecution of crimes involving driving
24 while under the influence of alcohol or drugs, or both, in violation
25 of Section 23152 or 23153, or vehicular manslaughter in violation
26 of Section 191.5 or subdivision (c) of Section 192 of the Penal
27 Code, or any combination of those crimes.

28 (d) Money collected pursuant to this section shall not be
29 expended to offset a reduction in any other source of funds, nor
30 for any purpose not authorized under this section.

31 (e) Any funds received by a county prior to January 1, 2000,
32 pursuant to this section, that are not expended to deter, investigate,
33 or prosecute crimes pursuant to subdivision (c) shall be returned
34 to the Controller, for deposit in the Motor Vehicle Account in the
35 State Transportation Fund. Those funds received by a county shall
36 be expended in accordance with this section.

37 (f) Each county that adopts a resolution under subdivision (a)
38 shall submit, on or before the 13th day following the end of each
39 quarter, a quarterly expenditure and activity report to the designated

1 statewide Vehicle Theft Investigation and Apprehension
 2 Coordinator in the Department of the California Highway Patrol.

3 (g) A county that imposes a fee under subdivision (a) shall issue
 4 a fiscal year-end report to the Controller on or before August 31
 5 of each year. The report shall include a detailed accounting of the
 6 funds received and expended in the immediately preceding fiscal
 7 year, including, at a minimum, all of the following:

8 (1) The total revenues received by the county under subdivision
 9 (b) for the immediately preceding fiscal year.

10 (2) The total expenditures by the county under subdivision (c)
 11 for the immediately preceding fiscal year.

12 (3) Details of expenditures made by the county under
 13 subdivision (c), including salaries and expenses, purchase of
 14 equipment and supplies, and any other expenditures made listed
 15 by type with an explanatory comment.

16 (4) A summary of vehicle theft abatement activities and other
 17 vehicle theft programs funded by the fees collected under this
 18 section.

19 (5) The total number of stolen vehicles recovered and the value
 20 of those vehicles during the immediately preceding fiscal year.

21 (6) The total number of vehicles stolen during the immediately
 22 preceding fiscal year as compared to the fiscal year prior to the
 23 immediately preceding fiscal year.

24 (7) Any additional, unexpended fee revenues received under
 25 subdivision (b) for the county for the immediately preceding fiscal
 26 year.

27 (h) Each county that fails to submit the report required pursuant
 28 to subdivision (g) by November 30 of each year shall have the fee
 29 suspended by the Controller for one year, commencing on July 1
 30 following the Controller's determination that a county has failed
 31 to submit the report.

32 (i) (1) On or before January 1, 2006, and on or before January
 33 1 annually thereafter, the Controller shall provide to the Department
 34 of the California Highway Patrol copies of the yearend reports
 35 submitted by the counties under subdivision (g), and, in
 36 consultation with the Department of the California Highway Patrol,
 37 shall review the fiscal yearend reports submitted by each county
 38 pursuant to subdivision (g) to determine if fee revenues are being
 39 utilized in a manner consistent with this section. If the Controller
 40 determines that the use of the fee revenues is not consistent with

1 this section, the Controller shall consult with the participating
2 counties' designated regional coordinators. If the Controller
3 determines that the fee revenues are still not consistent with this
4 section, the authority to collect the fee by that county shall be
5 suspended for one year.

6 (2) If the Controller determines that a county has not submitted
7 a fiscal yearend report as required in subdivision (g), the
8 authorization to collect the service fee shall be suspended for one
9 year pursuant to subdivision (h).

10 (3) When the Controller determines that a fee shall be suspended
11 for a county, the Controller shall inform the Department of Motor
12 Vehicles on or before January 1, 2006, and on or before January
13 1 annually thereafter, that the authority to collect a fee for that
14 county is suspended.

15 (j) On or before January 1, 2006, and on or before January 1
16 annually thereafter, the Controller shall prepare and submit to the
17 Legislature a revenue and expenditure summary for each
18 participating county that includes all of the following:

19 (1) The total revenues received by each county.

20 (2) The total expenditures by each county.

21 (3) The unexpended revenues for each county.

22 (k) The Department of the California Highway Patrol, in
23 consultation with all participating county designated regional
24 coordinators, shall review the effectiveness of reducing vehicle
25 theft crimes that were funded by the fees imposed by this section.
26 The Department of the California Highway Patrol shall provide a
27 report based on that review and, on or before January 1, 2009,
28 shall submit that report to the Legislature.

29 (l) For the purposes of this section, a county designated regional
30 coordinator is that agency designated by the participating county's
31 board of supervisors as the agency in control of its countywide
32 vehicle theft apprehension program.

33 (m) This section shall remain in effect only until January 1,
34 2018, and as of that date is repealed, unless a later enacted statute
35 that is enacted on or before January 1, 2018, deletes or extends
36 that date.

37 ~~SECTION 1. Section 9250.14 of the Vehicle Code is amended~~
38 ~~to read:~~

39 ~~9250.14. (a) (1) In addition to any other fees specified in this~~
40 ~~code and the Revenue and Taxation Code, upon the adoption of a~~

1 resolution by any county board of supervisors, a fee of one dollar
2 (\$1) shall be paid at the time of registration or renewal of
3 registration of every vehicle, except vehicles described in
4 subdivision (a) of Section 5014.1, registered to an address within
5 that county except those expressly exempted from payment of
6 registration fees. The fees, after deduction of the administrative
7 costs incurred by the department in carrying out this section, shall
8 be paid quarterly to the Controller.

9 (2) In addition to the one dollar (\$1) service fee, and upon the
10 implementation of the permanent trailer identification plate
11 program, and as part of the Commercial Vehicle Registration Act
12 of 2001, all commercial motor vehicles subject to Section 9400.1
13 registered to an owner with an address in the county that
14 established a service authority under this section, shall pay an
15 additional service fee of two dollars (\$2).

16 (b) Notwithstanding Section 13340 of the Government Code,
17 the money paid to the Controller is continuously appropriated,
18 without regard to fiscal years, for the administrative costs of the
19 Controller, and for disbursement by the Controller to each county
20 that has adopted a resolution pursuant to subdivision (a), based
21 upon the number of vehicles registered, or whose registration is
22 renewed, to an address within that county.

23 (c) Except as otherwise provided in this subdivision, money
24 allocated to a county pursuant to subdivision (b) shall be expended
25 exclusively to fund programs that enhance the capacity of local
26 police and prosecutors to deter, investigate, and prosecute vehicle
27 theft crimes. In any county with a population of 250,000 or less,
28 the money shall be expended exclusively for those vehicle theft
29 crime programs and for the prosecution of crimes involving driving
30 while under the influence of alcohol or drugs, or both, in violation
31 of Section 23152 or 23153, or vehicular manslaughter in violation
32 of Section 191.5 or subdivision (c) of Section 192 of the Penal
33 Code, or any combination of those crimes.

34 (d) Money collected pursuant to this section shall not be
35 expended to offset a reduction in any other source of funds, nor
36 for any purpose not authorized under this section.

37 (e) Any funds received by a county prior to January 1, 2000,
38 pursuant to this section, that are not expended to deter, investigate,
39 or prosecute crimes pursuant to subdivision (c) shall be returned
40 to the Controller, for deposit in the Motor Vehicle Account in the

1 State Transportation Fund. Those funds received by a county shall
2 be expended in accordance with this section.

3 (f) Each county that adopts a resolution under subdivision (a)
4 shall submit, on or before the 13th day following the end of each
5 quarter, a quarterly expenditure and activity report to the designated
6 statewide ~~Vehicle Theft Investigation and Apprehension~~
7 ~~Coordinator in the Department of the California Highway Patrol.~~

8 (g) A county that imposes a fee under subdivision (a) shall issue
9 a fiscal year-end report to the Controller on or before August 31
10 of each year. The report shall include a detailed accounting of the
11 funds received and expended in the immediately preceding fiscal
12 year, including, at a minimum, all of the following:

13 (1) ~~The total revenues received by the county under subdivision~~
14 ~~(b) for the immediately preceding fiscal year.~~

15 (2) ~~The total expenditures by the county under subdivision (c)~~
16 ~~for the immediately preceding fiscal year.~~

17 (3) ~~Details of expenditures made by the county under~~
18 ~~subdivision (e), including salaries and expenses, purchase of~~
19 ~~equipment and supplies, and any other expenditures made listed~~
20 ~~by type with an explanatory comment.~~

21 (4) ~~A summary of vehicle theft abatement activities and other~~
22 ~~vehicle theft programs funded by the fees collected under this~~
23 ~~section.~~

24 (5) ~~The total number of stolen vehicles recovered and the value~~
25 ~~of those vehicles during the immediately preceding fiscal year.~~

26 (6) ~~The total number of vehicles stolen during the immediately~~
27 ~~preceding fiscal year as compared to the fiscal year prior to the~~
28 ~~immediately preceding fiscal year.~~

29 (7) ~~Any additional, unexpended fee revenues received under~~
30 ~~subdivision (b) for the county for the immediately preceding fiscal~~
31 ~~year.~~

32 (h) ~~Each county that fails to submit the report required pursuant~~
33 ~~to subdivision (g) by November 30 of each year shall have the fee~~
34 ~~suspended by the Controller for one year, commencing on July 1~~
35 ~~following the Controller's determination that a county has failed~~
36 ~~to submit the report.~~

37 (i) (1) ~~On or before January 1 annually, the Controller shall~~
38 ~~provide to the Department of the California Highway Patrol copies~~
39 ~~of the yearend reports submitted by the counties under subdivision~~
40 ~~(g), and, in consultation with the Department of the California~~

1 Highway Patrol, shall review the fiscal yearend reports submitted
2 by each county pursuant to subdivision (g) to determine if fee
3 revenues are being utilized in a manner consistent with this section.
4 If the Controller determines that the use of the fee revenues is not
5 consistent with this section, the Controller shall consult with the
6 participating counties' designated regional coordinators. If the
7 Controller determines that the fee revenues are still not consistent
8 with this section, the authority to collect the fee by that county
9 shall be suspended for one year.

10 (2) If the Controller determines that a county has not submitted
11 a fiscal yearend report as required in subdivision (g), the
12 authorization to collect the service fee shall be suspended for one
13 year pursuant to subdivision (h).

14 (3) When the Controller determines that a fee shall be suspended
15 for a county, the Controller shall inform the Department of Motor
16 Vehicles on or before January 1 annually, that the authority to
17 collect a fee for that county is suspended.

18 (j) On or before January 1 annually, the Controller shall prepare
19 and submit to the Legislature a revenue and expenditure summary
20 for each participating county that includes all of the following:

21 (1) The total revenues received by each county.

22 (2) The total expenditures by each county.

23 (3) The unexpended revenues for each county.

24 (k) The Department of the California Highway Patrol, in
25 consultation with all participating county designated regional
26 coordinators, shall review the effectiveness of reducing vehicle
27 theft crimes that were funded by the fees imposed by this section.
28 The Department of the California Highway Patrol shall provide a
29 report based on that review and, on or before January 1, 2009,
30 shall submit that report to the Legislature.

31 (l) For the purposes of this section, a county designated regional
32 coordinator is that agency designated by the participating county's
33 board of supervisors as the agency in control of its countywide
34 vehicle theft apprehension program.

35 (m) An additional penalty in an amount equal to all reasonable
36 costs incurred by an investigating agency or agencies may be
37 imposed by the court on any person convicted of a felony or
38 misdemeanor for any vehicle theft crime investigated pursuant to
39 subdivision (e) as authorized by this section.

1 ~~(n) This section shall remain in effect only until January 1, 2018,~~
2 ~~and as of that date is repealed, unless a later enacted statute that~~
3 ~~is enacted on or before January 1, 2018, deletes or extends that~~
4 ~~date.~~

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