

AMENDED IN SENATE MAY 22, 2012

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~~ *add* Section ~~186.8~~ of *3460.5* to the Penal Code, and to ~~amend~~ Section ~~9250.14~~ of the Vehicle Code, relating to ~~vehicles~~ *postrelease community supervision*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1323, as amended, Gatto. ~~Vehicles: vehicle theft crimes: investigative costs.~~ *Postrelease community supervision.*

Existing law establishes a program of postrelease community supervision for certain persons who are released from prison or whose sentence has been deemed served after serving a prison term for a felony. Existing law requires that these persons enter into a postrelease community supervision agreement as a condition of their release, and that the agreement include certain conditions, including a requirement that the person inform the supervising county agency of his or her place of residence and any pending or anticipated changes in residence, and that the person obtain a travel pass from the supervising county agency before he or she may leave the county or state for more than 2 days.

Existing law also sets forth procedures for a change in residency of a person who is under postrelease community supervision.

This bill would authorize a city, charter city, or city and county to adopt and enact an ordinance that requires anyone who is placed on postrelease community supervision to register with the chief law enforcement officer of the city, charter city, or city and county upon establishing residency in that city, charter city, or city and county.

~~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.~~

~~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 3460.5 is added to the Penal Code, to
2 read:

3 3460.5. A city, charter city, or city and county may adopt and
4 enact an ordinance that requires anyone who is placed on
5 postrelease community supervision to register with the chief law
6 enforcement officer of the city, charter city, or city and county
7 upon establishing residency in that city, charter city, or city and
8 county.

9 SECTION 1. ~~Section 186.8 of the Penal Code is amended to~~
10 ~~read:~~

11 ~~186.8. Notwithstanding that no response or claim has been~~
12 ~~filed pursuant to Section 186.5, in all cases where property is~~
13 ~~forfeited pursuant to this chapter and, if necessary, sold by the~~
14 ~~Department of General Services or local governmental entity, the~~
15 ~~money forfeited or the proceeds of sale shall be distributed by the~~
16 ~~state or local governmental entity as follows:~~

17 ~~(a) To the bona fide or innocent purchaser, conditional sales~~
18 ~~vendor, or holder of a valid lien, mortgage, or security interest, if~~
19 ~~any, up to the amount of his or her interest in the property or~~
20 ~~proceeds, when the court declaring the forfeiture orders a~~
21 ~~distribution to that person. The court shall endeavor to discover~~
22 ~~all those lienholders and protect their interests and may, at its~~
23 ~~discretion, order the proceeds placed in escrow for up to an~~
24 ~~additional 60 days to ensure that all valid claims are received and~~
25 ~~processed.~~

26 ~~(b) To the Department of General Services or local governmental~~
27 ~~entity for all expenditures made or incurred by it in connection~~
28 ~~with the sale of the property, including expenditures for any~~
29 ~~necessary repairs, storage, or transportation of any property seized~~
30 ~~under this chapter.~~

31 ~~(c) To the general fund of the state or local governmental entity,~~
32 ~~whichever prosecutes.~~

33 ~~(d) In any case involving a violation of subdivision (b) of~~
34 ~~Section 311.2, or Section 311.3 or 311.4, in lieu of the distribution~~
35 ~~of the proceeds provided for by subdivisions (b) and (c), the~~

1 proceeds shall be deposited in the county children's trust fund,
2 established pursuant to Section 18966 of the Welfare and
3 Institutions Code, of the county that filed the petition of forfeiture.
4 If the county does not have a children's trust fund, the funds shall
5 be deposited in the State Children's Trust Fund, established
6 pursuant to Section 18969 of the Welfare and Institutions Code.

7 (e) In any case involving crimes against the state beverage
8 container recycling program, in lieu of the distribution of proceeds
9 provided in subdivision (c), the proceeds shall be deposited in the
10 penalty account established pursuant to subdivision (d) of Section
11 14580 of the Public Resources Code, except that a portion of the
12 proceeds equivalent to the cost of prosecution in the case shall be
13 distributed to the local prosecuting entity that filed the petition of
14 forfeiture.

15 (f) In any case involving human trafficking of minors for
16 purposes of prostitution or lewd conduct, or in any case involving
17 a violation of Section 266a in which the victim is a minor, in lieu
18 of the distribution provided for in subdivision (c), the proceeds
19 shall be deposited in the Victim-Witness Assistance Fund to be
20 available for appropriation to fund child sexual exploitation and
21 child sexual abuse victim counseling centers and prevention
22 programs under Section 13837. Fifty percent of the funds deposited
23 in the Victim-Witness Assistance Fund pursuant to this subdivision
24 shall be granted to community-based organizations that serve minor
25 victims of human trafficking.

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

32 (A) The case arises in a county that has adopted the resolution
33 described in subdivision (a) of Section 9250.14 of the Vehicle
34 Code.

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

38 (C) The case is prosecuted solely by a local entity, the sale of
39 the property is made by the local entity, and all expenditures made
40 or incurred in connection with the sale of the property, including

1 expenditures for any necessary repairs, storage, or transportation
2 of any property seized under this chapter, are made or incurred
3 solely by a local entity.

4 (2) The proceeds described in paragraph (1) that are to be
5 appropriated pursuant to Section 9250.14 of the Vehicle Code may
6 not be expended for any purpose other the purposes described in
7 paragraph (1) and may not be expended to offset a reduction in
8 any other source of funds.

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

11 SEC. 2. Section 9250.14 of the Vehicle Code is amended to
12 read:

13 9250.14. (a) (1) In addition to any other fees specified in this
14 code and the Revenue and Taxation Code, upon the adoption of a
15 resolution by any county board of supervisors, a fee of one dollar
16 (\$1) shall be paid at the time of registration or renewal of
17 registration of every vehicle, except vehicles described in
18 subdivision (a) of Section 5014.1, registered to an address within
19 that county except those expressly exempted from payment of
20 registration fees. The fees, after deduction of the administrative
21 costs incurred by the department in carrying out this section, shall
22 be paid quarterly to the Controller.

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

30 (3) In any county that has adopted the resolution pursuant to
31 this subdivision the proceeds collected pursuant to subdivision (g)
32 of Section 186.8 of the Penal Code shall be deposited with the
33 Controller for disbursement to the county pursuant to Section 186.8
34 of the Penal Code.

35 (b) Notwithstanding Section 13340 of the Government Code,
36 the money paid to the Controller is continuously appropriated,
37 without regard to fiscal years, for the administrative costs of the
38 Controller, and for disbursement by the Controller to each county
39 that has adopted a resolution pursuant to subdivision (a), based

1 upon the number of vehicles registered, or whose registration is
2 renewed, to an address within that county.

3 (e) Except as otherwise provided in this subdivision, money
4 allocated to a county pursuant to subdivision (b) shall be expended
5 exclusively to fund programs that enhance the capacity of local
6 police and prosecutors to deter, investigate, and prosecute vehicle
7 theft crimes. In any county with a population of 250,000 or less,
8 the money shall be expended exclusively for those vehicle theft
9 crime programs and for the prosecution of crimes involving driving
10 while under the influence of alcohol or drugs, or both, in violation
11 of Section 23152 or 23153, or vehicular manslaughter in violation
12 of Section 191.5 or subdivision (c) of Section 192 of the Penal
13 Code, or any combination of those crimes.

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

17 (e) Any funds received by a county prior to January 1, 2000,
18 pursuant to this section, that are not expended to deter, investigate,
19 or prosecute crimes pursuant to subdivision (e) shall be returned
20 to the Controller, for deposit in the Motor Vehicle Account in the
21 State Transportation Fund. Those funds received by a county shall
22 be expended in accordance with this section.

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

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

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

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

37 (3) Details of expenditures made by the county under
38 subdivision (c), including salaries and expenses, purchase of
39 equipment and supplies, and any other expenditures made listed
40 by type with an explanatory comment.

1 ~~(4) A summary of vehicle theft abatement activities and other~~
2 ~~vehicle theft programs funded by the fees collected under this~~
3 ~~section.~~

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

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

9 ~~(7) Any additional, unexpended fee revenues received under~~
10 ~~subdivision (b) for the county for the immediately preceding fiscal~~
11 ~~year.~~

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

17 ~~(i) (1) On or before January 1, 2006, and on or before January~~
18 ~~1 annually thereafter, the Controller shall provide to the Department~~
19 ~~of the California Highway Patrol copies of the yearend reports~~
20 ~~submitted by the counties under subdivision (g), and, in~~
21 ~~consultation with the Department of the California Highway Patrol,~~
22 ~~shall review the fiscal yearend reports submitted by each county~~
23 ~~pursuant to subdivision (g) to determine if fee revenues are being~~
24 ~~utilized in a manner consistent with this section. If the Controller~~
25 ~~determines that the use of the fee revenues is not consistent with~~
26 ~~this section, the Controller shall consult with the participating~~
27 ~~counties' designated regional coordinators. If the Controller~~
28 ~~determines that the fee revenues are still not consistent with this~~
29 ~~section, the authority to collect the fee by that county shall be~~
30 ~~suspended for one year.~~

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

35 ~~(3) When the Controller determines that a fee shall be suspended~~
36 ~~for a county, the Controller shall inform the Department of Motor~~
37 ~~Vehicles on or before January 1, 2006, and on or before January~~
38 ~~1 annually thereafter, that the authority to collect a fee for that~~
39 ~~county is suspended.~~

1 ~~(j) On or before January 1, 2006, and on or before January 1~~
2 ~~annually thereafter, the Controller shall prepare and submit to the~~
3 ~~Legislature a revenue and expenditure summary for each~~
4 ~~participating county that includes all of the following:~~
5 ~~(1) The total revenues received by each county.~~
6 ~~(2) The total expenditures by each county.~~
7 ~~(3) The unexpended revenues for each county.~~
8 ~~(k) The Department of the California Highway Patrol, in~~
9 ~~consultation with all participating county designated regional~~
10 ~~coordinators, shall review the effectiveness of reducing vehicle~~
11 ~~theft crimes that were funded by the fees imposed by this section.~~
12 ~~The Department of the California Highway Patrol shall provide a~~
13 ~~report based on that review and, on or before January 1, 2009,~~
14 ~~shall submit that report to the Legislature.~~
15 ~~(l) For the purposes of this section, a county designated regional~~
16 ~~coordinator is that agency designated by the participating county's~~
17 ~~board of supervisors as the agency in control of its countywide~~
18 ~~vehicle theft apprehension program.~~
19 ~~(m) This section shall remain in effect only until January 1,~~
20 ~~2018, and as of that date is repealed, unless a later enacted statute~~
21 ~~that is enacted on or before January 1, 2018, deletes or extends~~
22 ~~that date.~~