

**ASSEMBLY BILL**

**No. 2468**

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**Introduced by Assembly Member Knight**

February 24, 2012

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An act to amend Sections 2800.1, 2800.2, 2800.3, and 2800.4 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2468, as introduced, Knight. Vehicles: fleeing a peace officer.

Existing law makes it either a misdemeanor or a felony, depending on specified circumstances, for a person operating a motor vehicle to willfully flee or otherwise attempt to elude a pursuing peace officer's vehicle or bicycle under certain conditions.

This bill would increase the penalty for a person operating a motor vehicle who willfully flees or otherwise attempts to elude a pursuing peace officer's vehicle or bicycle under the specified conditions, if the person is on parole, postrelease supervision, postrelease community supervision, or probation for a felony, or who is a defendant serving a specified sentence.

By adding to the elements of an offense to increase punishment, thereby imposing new proof requirements, the bill would impose a state-mandated local program.

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 no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 2800.1 of the Vehicle Code is amended  
2 to read:

3 2800.1. (a) ~~Any~~ *Except as provided in subdivision (c), a person*  
4 *who, while operating a motor vehicle and with the intent to evade,*  
5 *willfully flees or otherwise attempts to elude a pursuing peace*  
6 *officer's motor vehicle, is guilty of a misdemeanor punishable by*  
7 *imprisonment in a county jail for not more than one year if all of*  
8 *the following conditions exist:*

9 (1) The peace officer's motor vehicle is exhibiting at least one  
10 lighted red lamp visible from the front and the person either sees  
11 or reasonably should have seen the lamp.

12 (2) The peace officer's motor vehicle is sounding a siren as may  
13 be reasonably necessary.

14 (3) The peace officer's motor vehicle is distinctively marked.

15 (4) The peace officer's motor vehicle is operated by a peace  
16 officer, as defined in Chapter 4.5 (commencing with Section 830)  
17 of Title 3 of Part 2 of the Penal Code, and that peace officer is  
18 wearing a distinctive uniform.

19 (b) ~~Any~~ *Except as provided in subdivision (c), a person who,*  
20 *while operating a motor vehicle and with the intent to evade,*  
21 *willfully flees or otherwise attempts to elude a pursuing peace*  
22 *officer's bicycle, is guilty of a misdemeanor punishable by*  
23 *imprisonment in a county jail for not more than one year if the*  
24 *following conditions exist:*

25 (1) The peace officer's bicycle is distinctively marked.

26 (2) The peace officer's bicycle is operated by a peace officer,  
27 as defined in paragraph (4) of subdivision (a), and that peace officer  
28 is wearing a distinctive uniform.

29 (3) The peace officer gives a verbal command to stop.

30 (4) The peace officer sounds a horn that produces a sound of at  
31 least 115 decibels.

32 (5) The peace officer gives a hand signal commanding the person  
33 to stop.

34 (6) The person is aware or reasonably should have been aware  
35 of the verbal command, horn, and hand signal, but refuses to  
36 comply with the command to stop.

37 (c) *A person who violates subdivision (a) or (b) while on parole,*  
38 *postrelease supervision, postrelease community supervision*

1 *pursuant to Section 3451 of the Penal Code, or probation for a*  
2 *felony, or is a defendant serving a sentence pursuant to subdivision*  
3 *(h) of Section 1170 of the Penal Code, shall be punished by*  
4 *imprisonment in state prison for 16 months, or two or three years.*

5 SEC. 2. Section 2800.2 of the Vehicle Code is amended to  
6 read:

7 2800.2. (a) ~~If~~*Except as provided in subdivision (c), if* a person  
8 flees or attempts to elude a pursuing peace officer in violation of  
9 Section 2800.1 and the pursued vehicle is driven in a willful or  
10 wanton disregard for the safety of persons or property, the person  
11 driving the vehicle, upon conviction, shall be punished by  
12 imprisonment in the state prison, or by confinement in the county  
13 jail for not less than six months nor more than one year. The court  
14 may also impose a fine of not less than one thousand dollars  
15 (\$1,000) nor more than ten thousand dollars (\$10,000), or may  
16 impose both that imprisonment or confinement and fine.

17 (b) For purposes of this section, a willful or wanton disregard  
18 for the safety of persons or property includes, but is not limited  
19 to, driving while fleeing or attempting to elude a pursuing peace  
20 officer during which time either three or more violations that are  
21 assigned a traffic violation point count under Section 12810 occur,  
22 or damage to property occurs.

23 (c) *A person who violates subdivision (a) while on parole,*  
24 *postrelease supervision, postrelease community supervision*  
25 *pursuant to Section 3451 of the Penal Code, or probation for a*  
26 *felony, or who is a defendant serving a sentence pursuant to*  
27 *subdivision (h) of Section 1170 of the Penal Code, shall be*  
28 *punished by imprisonment in the state prison for two, three, or*  
29 *four years.*

30 SEC. 3. Section 2800.3 of the Vehicle Code is amended to  
31 read:

32 2800.3. (a) Whenever willful flight or attempt to elude a  
33 pursuing peace officer in violation of Section 2800.1 proximately  
34 causes serious bodily injury to any person, the person driving the  
35 pursued vehicle, upon conviction, shall be punished by  
36 imprisonment in the state prison for three, five, or seven years, by  
37 imprisonment in a county jail for not more than one year, or by a  
38 fine of not less than two thousand dollars (\$2,000) nor more than  
39 ten thousand dollars (\$10,000), or by both that fine and  
40 imprisonment.

1 (b) Whenever willful flight or attempt to elude a pursuing peace  
2 officer in violation of Section 2800.1 proximately causes death to  
3 a person, the person driving the pursued vehicle, upon conviction,  
4 shall be punished by imprisonment in the state prison for a term  
5 of 4, 6, or 10 years.

6 (c) Nothing in this section shall preclude the imposition of a  
7 greater sentence pursuant to Section 190 of the Penal Code or any  
8 other provisions of law applicable to punishment for an unlawful  
9 death.

10 (d) For the purposes of this section, “serious bodily injury” has  
11 the same meaning as defined in paragraph (4) of subdivision (f)  
12 of Section 243 of the Penal Code.

13 (e) *A person who commits a felony violation of subdivision (a)*  
14 *or (b) while on parole, postrelease supervision, postrelease*  
15 *community supervision pursuant to Section 3451 of the Penal*  
16 *Code, or probation for a felony, or who is a defendant serving a*  
17 *sentence pursuant to subdivision (h) of Section 1170 of the Penal*  
18 *Code, shall be subject to a penalty enhancement of two years in*  
19 *state prison which shall be served consecutive to any other term*  
20 *imposed by the court.*

21 SEC. 4. Section 2800.4 of the Vehicle Code is amended to  
22 read:

23 2800.4. ~~Whenever~~ *(a) Except as provided in subdivision (b),*  
24 *if a person willfully flees or attempts to elude a pursuing peace*  
25 *officer in violation of Section 2800.1, and the person operating*  
26 *the pursued vehicle willfully drives that vehicle on a highway in*  
27 *a direction opposite to that in which the traffic lawfully moves*  
28 *upon that highway, the person upon conviction is punishable by*  
29 *imprisonment for not less than six months nor more than one year*  
30 *in a county jail or by imprisonment pursuant to subdivision (h) of*  
31 *Section 1170 of the Penal Code, or by a fine of not less than one*  
32 *thousand dollars (\$1,000) nor more than ten thousand dollars*  
33 *(\$10,000), or by both that fine and imprisonment.*

34 *(b) A person who violates subdivision (a) while on parole,*  
35 *postrelease supervision, postrelease community supervision*  
36 *pursuant to Section 3451 of the Penal Code, or probation for a*  
37 *felony, or who is a defendant serving a sentence pursuant to*  
38 *subdivision (h) of Section 1170 of the Penal Code, shall be*  
39 *punished by imprisonment in state prison for two, three, or four*  
40 *years.*

1     SEC. 5. No reimbursement is required by this act pursuant to  
2 Section 6 of Article XIII B of the California Constitution because  
3 the only costs that may be incurred by a local agency or school  
4 district will be incurred because this act creates a new crime or  
5 infraction, eliminates a crime or infraction, or changes the penalty  
6 for a crime or infraction, within the meaning of Section 17556 of  
7 the Government Code, or changes the definition of a crime within  
8 the meaning of Section 6 of Article XIII B of the California  
9 Constitution.

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