

AMENDED IN ASSEMBLY APRIL 18, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2468

Introduced by Assembly Member Knight

February 24, 2012

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 amended, 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~~ *requires a person who is convicted of willfully fleeing or attempting to elude a pursuing peace officer while operating a motor vehicle and who proximately causes serious bodily injury or death to any person to be punished by imprisonment in the state prison for one of the specified terms, by confinement in a county jail for not less than 6 months nor more than one year, by a specified fine, or by both that fine and imprisonment. Existing law also requires a person who is convicted of willfully fleeing or attempting to elude a pursuing peace officer while operating a motor vehicle, and who willfully drives that vehicle on a highway in a direction opposite to that in which the traffic lawfully moves upon that highway, to be punished by imprisonment, or a fine, or by both that fine and imprisonment.*

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~~ *those*

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

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

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

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

6 ~~(4) The peace officer sounds a horn that produces a sound of at~~
7 ~~least 115 decibels.~~

8 ~~(5) The peace officer gives a hand signal commanding the person~~
9 ~~to stop.~~

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

13 ~~(e) A person who violates subdivision (a) or (b) while on parole,~~
14 ~~postrelease supervision, postrelease community supervision~~
15 ~~pursuant to Section 3451 of the Penal Code, or probation for a~~
16 ~~felony, or is a defendant serving a sentence pursuant to subdivision~~
17 ~~(h) of Section 1170 of the Penal Code, shall be punished by~~
18 ~~imprisonment in state prison for 16 months, or two or three years.~~

19 ~~SEC. 2. Section 2800.2 of the Vehicle Code is amended to~~
20 ~~read:~~

21 ~~2800.2. (a) Except as provided in subdivision (c), if a person~~
22 ~~flees or attempts to elude a pursuing peace officer in violation of~~
23 ~~Section 2800.1 and the pursued vehicle is driven in a willful or~~
24 ~~wanton disregard for the safety of persons or property, the person~~
25 ~~driving the vehicle, upon conviction, shall be punished by~~
26 ~~imprisonment in the state prison, or by confinement in the county~~
27 ~~jail for not less than six months nor more than one year. The court~~
28 ~~may also impose a fine of not less than one thousand dollars~~
29 ~~(\$1,000) nor more than ten thousand dollars (\$10,000), or may~~
30 ~~impose both that imprisonment or confinement and fine.~~

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

37 ~~(e) A person who violates subdivision (a) while on parole,~~
38 ~~postrelease supervision, postrelease community supervision~~
39 ~~pursuant to Section 3451 of the Penal Code, or probation for a~~
40 ~~felony, or who is a defendant serving a sentence pursuant to~~

1 ~~subdivision (h) of Section 1170 of the Penal Code, shall be~~
 2 ~~punished by imprisonment in the state prison for two, three, or~~
 3 ~~four years.~~

4 ~~SEC. 3.~~

5 *SECTION 1.* Section 2800.3 of the Vehicle Code is amended
 6 to read:

7 2800.3. (a) Whenever willful flight or attempt to elude a
 8 pursuing peace officer in violation of Section 2800.1 proximately
 9 causes serious bodily injury to any person, the person driving the
 10 pursued vehicle, upon conviction, shall be punished by
 11 imprisonment in the state prison for three, five, or seven years, by
 12 imprisonment in a county jail for not more than one year, or by a
 13 fine of not less than two thousand dollars (\$2,000) nor more than
 14 ten thousand dollars (\$10,000), or by both that fine and
 15 imprisonment.

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

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

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

28 (e) A person who commits a felony violation of subdivision (a)
 29 or (b) while on parole, postrelease supervision, postrelease
 30 community supervision pursuant to Section 3451 of the Penal
 31 Code, or probation for a felony, or who is a defendant serving a
 32 sentence pursuant to subdivision (h) of Section 1170 of the Penal
 33 Code, shall be subject to a penalty enhancement of two years in
 34 state prison which shall be served consecutive to any other term
 35 imposed by the court.

36 ~~SEC. 4.~~

37 *SEC. 2.* Section 2800.4 of the Vehicle Code is amended to
 38 read:

39 2800.4. (a) Except as provided in subdivision (b), if a person
 40 willfully flees or attempts to elude a pursuing peace officer in

1 violation of Section 2800.1, and the person operating the pursued
2 vehicle willfully drives that vehicle on a highway in a direction
3 opposite to that in which the traffic lawfully moves upon that
4 highway, the person upon conviction is punishable by
5 imprisonment for not less than six months nor more than one year
6 in a county jail or by imprisonment pursuant to subdivision (h) of
7 Section 1170 of the Penal Code, or by a fine of not less than one
8 thousand dollars (\$1,000) nor more than ten thousand dollars
9 (\$10,000), or by both that fine and imprisonment.

10 (b) A person who violates subdivision (a) while on parole,
11 postrelease supervision, postrelease community supervision
12 pursuant to Section 3451 of the Penal Code, or probation for a
13 felony, or who is a defendant serving a sentence pursuant to
14 subdivision (h) of Section 1170 of the Penal Code, shall be
15 punished by imprisonment in state prison for two, three, or four
16 years.

17 ~~SEC. 5.~~

18 *SEC. 3.* No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section 17556 of
24 the Government Code, or changes the definition of a crime within
25 the meaning of Section 6 of Article XIII B of the California
26 Constitution.