

AMENDED IN ASSEMBLY JULY 15, 2015

AMENDED IN ASSEMBLY JULY 7, 2015

AMENDED IN SENATE MAY 6, 2015

AMENDED IN SENATE APRIL 16, 2015

SENATE BILL

No. 510

Introduced by Senator Hall

(Coauthor: Senator Beall)

(Coauthor: Assembly Member Frazier)

February 26, 2015

An act to amend ~~Section 23109~~ *Sections 23103, 23109, and 23109.2* of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 510, as amended, Hall. ~~Speed-contests; contests and reckless driving; impounded vehicles.~~

Existing law makes it a crime to engage in a motor vehicle speed contest on a highway. *Existing law prohibits an individual from driving a vehicle upon a highway or in an offstreet parking facility in a reckless manner. Existing law authorizes a peace officer, upon determining that a person was engaged in any of these crimes, to impound the vehicle used for the offense for no more than 30 days.* Existing law provides that if a person is convicted of engaging in a motor vehicle speed contest on a highway and the vehicle used in the violation is registered to that person, the vehicle may be impounded at the registered owner's expense for not less than one day nor more than 30 days.

This bill would ~~instead require a vehicle to be impounded pursuant to these provisions for 30 days;~~ *require the vehicle used in the violation of the crimes above, if it is registered to the person convicted of*

engaging in a motor vehicle speed contest or reckless driving, to be impounded for 30 days, subject to specified exceptions. By imposing new requirements on local agencies, the bill would create a state-mandated local program. The bill would ~~authorize~~, *clarify that*, upon finding a violation of any mechanical requirements, an officer to issue a notice to correct, and require the correction to be made within 30 days of release of the vehicle from impoundment. The bill would also require the vehicle to be released before the 30th day if the legal owner who is not the registered owner, holds a security interest in the vehicle, presents foreclosure documents or an affidavit of repossession, and meets other specified conditions.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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 23103 of the Vehicle Code is amended to
2 read:
3 23103. (a) A person who drives a vehicle upon a highway in
4 willful or wanton disregard for the safety of persons or property
5 is guilty of reckless driving.
6 (b) A person who drives a vehicle in an offstreet parking
7 facility, as defined in subdivision (c) of Section 12500, in willful
8 or wanton disregard for the safety of persons or property is guilty
9 of reckless driving.
10 (c) Except as otherwise provided in Section 40008, persons
11 convicted of the offense of reckless driving shall be punished by
12 imprisonment in a county jail for not less than five days nor more
13 than 90 days or by a fine of not less than one hundred forty-five
14 dollars (\$145) nor more than one thousand dollars (\$1,000), or by
15 both that fine and imprisonment, except as provided in Section
16 23104 or 23105.

1 (d) (1) *If a person is convicted of a violation of subdivision (a)*
2 *or (b) and the vehicle used in the violation is registered to that*
3 *person, the vehicle shall be impounded at the registered owner's*
4 *expense for 30 days.*

5 (A) *The 30-day period shall be reduced by the number of days,*
6 *if any, the vehicle was impounded pursuant to Section 23109.2.*

7 (B) *If the court finds that the vehicle to be impounded is the*
8 *only means of transportation for other members of the defendant's*
9 *family and impounding the vehicle will result in an undue hardship*
10 *for the family, the court may decline to order the vehicle*
11 *impounded.*

12 (2) *A vehicle seized and impounded pursuant to paragraph (1)*
13 *shall be released to the legal owner of the vehicle, or the legal*
14 *owner's agent, on or before the 30th day of impoundment if all of*
15 *the following conditions are met:*

16 (A) *The legal owner is a motor vehicle dealer, bank, credit*
17 *union, acceptance corporation, or other licensed financial*
18 *institution legally operating in this state, or is another person, not*
19 *the registered owner, holding a security interest in the vehicle.*

20 (B) *The legal owner or the legal owner's agent pays all towing*
21 *and storage fees related to the impoundment of the vehicle. No*
22 *lien sale processing fees shall be charged to a legal owner who*
23 *redeems the vehicle on or before the 15th day of impoundment.*

24 (C) *The legal owner or the legal owner's agent presents*
25 *foreclosure documents or an affidavit of repossession for the*
26 *vehicle.*

27 **SECTION 1.**

28 SEC. 2. Section 23109 of the Vehicle Code is amended to read:

29 23109. (a) A person shall not engage in a motor vehicle speed
30 contest on a highway. As used in this section, a motor vehicle
31 speed contest includes a motor vehicle race against another vehicle,
32 a clock, or other timing device. For purposes of this section, an
33 event in which the time to cover a prescribed route of more than
34 20 miles is measured, but the vehicle does not exceed the speed
35 limits, is not a speed contest.

36 (b) A person shall not aid or abet in any motor vehicle speed
37 contest on any highway.

38 (c) A person shall not engage in a motor vehicle exhibition of
39 speed on a highway, and a person shall not aid or abet in a motor
40 vehicle exhibition of speed on any highway.

1 (d) A person shall not, for the purpose of facilitating or aiding
2 or as an incident to any motor vehicle speed contest or exhibition
3 upon a highway, in any manner obstruct or place a barricade or
4 obstruction or assist or participate in placing a barricade or
5 obstruction upon any highway.

6 (e) (1) A person convicted of a violation of subdivision (a) shall
7 be punished by imprisonment in a county jail for not less than 24
8 hours nor more than 90 days or by a fine of not less than three
9 hundred fifty-five dollars (\$355) nor more than one thousand
10 dollars (\$1,000), or by both that fine and imprisonment. That
11 person shall also be required to perform 40 hours of community
12 service. The court may order the privilege to operate a motor
13 vehicle suspended for 90 days to six months, as provided in
14 paragraph (8) of subdivision (a) of Section 13352. The person's
15 privilege to operate a motor vehicle may be restricted for 90 days
16 to six months to necessary travel to and from that person's place
17 of employment and, if driving a motor vehicle is necessary to
18 perform the duties of the person's employment, restricted to driving
19 in that person's scope of employment. This subdivision does not
20 interfere with the court's power to grant probation in a suitable
21 case.

22 (2) If a person is convicted of a violation of subdivision (a) and
23 that violation proximately causes bodily injury to a person other
24 than the driver, the person convicted shall be punished by
25 imprisonment in a county jail for not less than 30 days nor more
26 than six months or by a fine of not less than five hundred dollars
27 (\$500) nor more than one thousand dollars (\$1,000), or by both
28 that fine and imprisonment.

29 (f) (1) If a person is convicted of a violation of subdivision (a)
30 for an offense that occurred within five years of the date of a prior
31 offense that resulted in a conviction of a violation of subdivision
32 (a), that person shall be punished by imprisonment in a county jail
33 for not less than four days nor more than six months, and by a fine
34 of not less than five hundred dollars (\$500) nor more than one
35 thousand dollars (\$1,000).

36 (2) If the perpetration of the most recent offense within the
37 five-year period described in paragraph (1) proximately causes
38 bodily injury to a person other than the driver, a person convicted
39 of that second violation shall be imprisoned in a county jail for
40 not less than 30 days nor more than six months and by a fine of

1 not less than five hundred dollars (\$500) nor more than one
2 thousand dollars (\$1,000).

3 (3) If the perpetration of the most recent offense within the
4 five-year period described in paragraph (1) proximately causes
5 serious bodily injury, as defined in paragraph (4) of subdivision
6 (f) of Section 243 of the Penal Code, to a person other than the
7 driver, a person convicted of that second violation shall be
8 imprisoned in the state prison, or in a county jail for not less than
9 30 days nor more than one year, and by a fine of not less than five
10 hundred dollars (\$500) nor more than one thousand dollars
11 (\$1,000).

12 (4) The court shall order the privilege to operate a motor vehicle
13 of a person convicted under paragraph (1), (2), or (3) suspended
14 for a period of six months, as provided in paragraph (9) of
15 subdivision (a) of Section 13352. In lieu of the suspension, the
16 person's privilege to operate a motor vehicle may be restricted for
17 six months to necessary travel to and from that person's place of
18 employment and, if driving a motor vehicle is necessary to perform
19 the duties of the person's employment, restricted to driving in that
20 person's scope of employment.

21 (5) This subdivision does not interfere with the court's power
22 to grant probation in a suitable case.

23 (g) If the court grants probation to a person subject to
24 punishment under subdivision (f), in addition to subdivision (f)
25 and any other terms and conditions imposed by the court, which
26 may include a fine, the court shall impose as a condition of
27 probation that the person be confined in a county jail for not less
28 than 48 hours nor more than six months. The court shall order the
29 person's privilege to operate a motor vehicle to be suspended for
30 a period of six months, as provided in paragraph (9) of subdivision
31 (a) of Section 13352 or restricted pursuant to subdivision (f).

32 (h) (1) If a person is convicted of a violation of subdivision (a)
33 and the vehicle used in the violation is registered to that person,
34 the vehicle shall be impounded at the registered owner's expense
35 for 30 days.

36 (A) The 30-day period shall be reduced by the number of days,
37 if any, the vehicle was impounded pursuant to Section 23109.2.

38 (B) If the court finds that the vehicle to be impounded is the
39 only means of transportation for other members of the defendant's
40 family and impounding the vehicle will result in an undue hardship

1 for the family, the court may decline to order the vehicle
2 impounded.

3 (2) If the impounded vehicle was found to be in violation of a
4 mechanical requirement of this code, or the vehicle is inspected
5 pursuant to Section 2806 and found in violation of this code, an
6 officer ~~may~~, may issue a notice to correct pursuant to Section
7 40303.5, and correction of the violation as set forth in Sections
8 40610 and 40611 shall be made within 30 days of the date the
9 vehicle was released from impound. Upon correction, the violation
10 issued pursuant to 40303.5 shall be dismissed pursuant to Section
11 40522.

12 (3) A vehicle seized and impounded pursuant to paragraph (1)
13 shall be released to the legal owner of the vehicle, or the legal
14 owner's agent, on or before the 30th day of impoundment if all of
15 the following conditions are met:

16 (A) The legal owner is a motor vehicle dealer, bank, credit
17 union, acceptance corporation, or other licensed financial institution
18 legally operating in this state, or is another person, not the
19 registered owner, holding a security interest in the vehicle.

20 (B) The legal owner or the legal owner's agent pays all towing
21 and storage fees related to the impoundment of the vehicle. No
22 lien sale processing fees shall be charged to a legal owner who
23 redeems the vehicle on or before the 15th day of impoundment.

24 (C) The legal owner or the legal owner's agent presents
25 foreclosure documents or an affidavit of repossession for the
26 vehicle.

27 (i) A person who violates subdivision (b), (c), or ~~(d)~~, (d) shall
28 upon conviction of that violation be punished by imprisonment in
29 a county jail for not more than 90 days, by a fine of not more than
30 five hundred dollars (\$500), or by both that fine and imprisonment.

31 (j) If a person's privilege to operate a motor vehicle is restricted
32 by a court pursuant to this section, the court shall clearly mark the
33 restriction and the dates of the restriction on that person's driver's
34 license and promptly notify the Department of Motor Vehicles of
35 the terms of the restriction in a manner prescribed by the
36 department. The Department of Motor Vehicles shall place that
37 restriction in the person's records in the Department of Motor
38 Vehicles and enter the restriction on a license subsequently issued
39 by the Department of Motor Vehicles to that person during the
40 period of the restriction.

1 (k) The court may order that a person convicted under this
2 section, who is to be punished by imprisonment in a county jail,
3 be imprisoned on days other than days of regular employment of
4 the person, as determined by the court.

5 (l) This section shall be known and may be cited as the Louis
6 Friend Memorial Act.

7 *SEC. 3. Section 23109.2 of the Vehicle Code is amended to*
8 *read:*

9 23109.2. (a) (1) Whenever a peace officer determines that a
10 person was engaged in any of the activities set forth in paragraph
11 (2), the peace officer may immediately arrest and take into custody
12 that person and may cause the removal and seizure of the motor
13 vehicle used in that offense in accordance with Chapter 10
14 (commencing with Section 22650). A motor vehicle so seized may
15 be impounded for not more than 30 days.

16 (2) (A) A motor vehicle speed contest, as described in
17 subdivision (a) of Section 23109.

18 (B) Reckless driving on a highway, as described in subdivision
19 (a) of Section 23103.

20 (C) Reckless driving in an offstreet parking facility, as described
21 in subdivision (b) of Section 23103.

22 (D) Exhibition of speed on a highway, as described in
23 subdivision (c) of Section 23109.

24 (b) The registered and legal owner of a vehicle removed and
25 seized under subdivision (a) or their agents shall be provided the
26 opportunity for a storage hearing to determine the validity of the
27 storage in accordance with Section 22852.

28 (c) (1) Notwithstanding Chapter 10 (commencing with Section
29 22650) or any other provision of law, an impounding agency shall
30 release a motor vehicle to the registered owner or his or her agent
31 prior to the conclusion of the impoundment period described in
32 subdivision (a) under any of the following circumstances:

33 (A) If the vehicle is a stolen vehicle.

34 (B) If the person alleged to have been engaged in the motor
35 vehicle speed contest, as described in subdivision (a), was not
36 authorized by the registered owner of the motor vehicle to operate
37 the motor vehicle at the time of the commission of the offense.

38 (C) If the registered owner of the vehicle was neither the driver
39 nor a passenger of the vehicle at the time of the alleged violation
40 pursuant to subdivision (a), or was unaware that the driver was

1 using the vehicle to engage in any of the activities described in
2 subdivision (a).

3 (D) If the legal owner or registered owner of the vehicle is a
4 rental car agency.

5 (E) If, prior to the conclusion of the impoundment period, a
6 citation or notice is dismissed under Section 40500, criminal
7 charges are not filed by the district attorney because of a lack of
8 evidence, or the charges are otherwise dismissed by the court.

9 (2) A vehicle shall be released pursuant to this subdivision only
10 if the registered owner or his or her agent presents a currently valid
11 driver's license to operate the vehicle and proof of current vehicle
12 registration, or if ordered by a court.

13 (3) If, pursuant to subparagraph (E) of paragraph (1) a motor
14 vehicle is released prior to the conclusion of the impoundment
15 period, neither the person charged with a violation of subdivision
16 (a) of Section 23109 nor the registered owner of the motor vehicle
17 is responsible for towing and storage charges nor shall the motor
18 vehicle be sold to satisfy those charges.

19 (d) A vehicle seized and removed under subdivision (a) shall
20 be released to the legal owner of the vehicle, or the legal owner's
21 agent, on or before the 30th day of impoundment if all of the
22 following conditions are met:

23 (1) The legal owner is a motor vehicle dealer, bank, credit union,
24 acceptance corporation, or other licensed financial institution
25 legally operating in this state, or is another person, not the
26 registered owner, holding a security interest in the vehicle.

27 (2) The legal owner or the legal owner's agent pays all towing
28 and storage fees related to the impoundment of the vehicle. No
29 lien sale processing fees shall be charged to a legal owner who
30 redeems the vehicle on or before the 15th day of impoundment.

31 (3) The legal owner or the legal owner's agent presents
32 foreclosure documents or an affidavit of repossession for the
33 vehicle.

34 (e) (1) The registered owner or his or her agent is responsible
35 for all towing and storage charges related to the impoundment,
36 and any administrative charges authorized under Section 22850.5.

37 (2) Notwithstanding paragraph (1), if the person convicted of
38 engaging in the activities set forth in paragraph (2) of subdivision
39 (a) was not authorized by the registered owner of the motor vehicle
40 to operate the motor vehicle at the time of the commission of the

1 offense, the court shall order the convicted person to reimburse
2 the registered owner for any towing and storage charges related
3 to the impoundment, and any administrative charges authorized
4 under Section 22850.5 incurred by the registered owner to obtain
5 possession of the vehicle, unless the court finds that the person
6 convicted does not have the ability to pay all or part of those
7 charges.

8 (3) If the vehicle is a rental vehicle, the rental car agency may
9 require the person to whom the vehicle was rented to pay all towing
10 and storage charges related to the impoundment and any
11 administrative charges authorized under Section 22850.5 incurred
12 by the rental car agency in connection with obtaining possession
13 of the vehicle.

14 (4) The owner is not liable for any towing and storage charges
15 related to the impoundment if acquittal or dismissal occurs.

16 (5) The vehicle may not be sold prior to the defendant's
17 conviction.

18 (6) The impounding agency is responsible for the actual costs
19 incurred by the towing agency as a result of the impoundment
20 should the registered owner be absolved of liability for those
21 charges pursuant to paragraph (3) of subdivision (c).
22 Notwithstanding this provision, nothing shall prohibit impounding
23 agencies from making prior payment arrangements to satisfy this
24 requirement.

25 (f) Any period when a vehicle is subjected to storage under this
26 section shall be included as part of the period of impoundment
27 ordered by the court under *subdivision (d) of Section 23103 or*
28 *subdivision (h) of Section 23109.*

29 ~~SEC. 2.~~

30 *SEC. 4.* If the Commission on State Mandates determines that
31 this act contains costs mandated by the state, reimbursement to
32 local agencies and school districts for those costs shall be made
33 pursuant to Part 7 (commencing with Section 17500) of Division
34 4 of Title 2 of the Government Code.