

Senate Bill No. 510

Passed the Senate September 1, 2015

Secretary of the Senate

Passed the Assembly August 27, 2015

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2015, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

SB 510, Hall. Speed 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 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 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.

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

SECTION 1. Section 23103 of the Vehicle Code is amended to read:

23103. (a) A person who drives a vehicle upon a highway in willful or wanton disregard for the safety of persons or property is guilty of reckless driving.

(b) A person who drives a vehicle in an offstreet parking facility, as defined in subdivision (c) of Section 12500, in willful or wanton disregard for the safety of persons or property is guilty of reckless driving.

(c) Except as otherwise provided in Section 40008, persons convicted of the offense of reckless driving shall be punished by imprisonment in a county jail for not less than 5 days nor more than 90 days or by a fine of not less than one hundred forty-five dollars (\$145) nor more than one thousand dollars (\$1,000), or by both that fine and imprisonment, except as provided in Section 23104 or 23105.

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

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

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

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

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

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

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

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

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

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

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

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

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

interfere with the court's power to grant probation in a suitable case.

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

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

(2) If the perpetration of the most recent offense within the five-year period described in paragraph (1) proximately causes bodily injury to a person other than the driver, a person convicted of that second violation shall be imprisoned in a county jail for not less than 30 days nor more than six months and by a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000).

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

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

the duties of the person's employment, restricted to driving in that person's scope of employment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) If the vehicle is a stolen vehicle.

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

(C) If the registered owner of the vehicle was neither the driver nor a passenger of the vehicle at the time of the alleged violation pursuant to subdivision (a), or was unaware that the driver was using the vehicle to engage in any of the activities described in subdivision (a).

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

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

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

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

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

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

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

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

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

(2) Notwithstanding paragraph (1), if the person convicted of engaging in the activities set forth in paragraph (2) of subdivision (a) was not authorized by the registered owner of the motor vehicle to operate the motor vehicle at the time of the commission of the offense, the court shall order the convicted person to reimburse the registered owner for any towing and storage charges related to the impoundment, and any administrative charges authorized under Section 22850.5 incurred by the registered owner to obtain possession of the vehicle, unless the court finds that the person convicted does not have the ability to pay all or part of those charges.

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

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

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

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

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

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

Approved _____, 2015

Governor