

AMENDED IN ASSEMBLY MARCH 28, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

**ASSEMBLY BILL**

**No. 3170**

**Introduced by Assembly Member Martinez**

February 23, 1996

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An act to amend Section 487h of, to amend and repeal Section 666.5 of, and to repeal Section 499b of, the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 3170, as amended, Martinez. Crimes: theft: ~~joyriding~~ vehicles.

(1) Existing law which specifies various penalties pertaining to the felonious stealing or grand theft of any motor vehicle, trailer, special construction equipment, or vessel is scheduled to be repealed on January 1, 1997.

This bill would delete the repealer in the above provision. By extending indefinitely the duration of various crimes, the bill would impose a state-mandated local program.

(2) Existing law makes it a misdemeanor for any person to take any automobile, bicycle, motorcycle, or other vehicle or motorboat or vessel, without the permission of the owner, for temporary use or operation.

This bill would repeal this provision.

(3) With respect to a defendant previously convicted of felony vehicle theft or felony grand theft who is subsequently convicted of any of those offenses, existing law, scheduled to be repealed on January 1, 1997, provides that the defendant

shall be punished by imprisonment in the state prison for 3, 4, or 5 years, and existing law, scheduled to be operative on and after January 1, 1997, provides that the defendant shall be punished by imprisonment in the state prison for 2, 3, or 4 years.

This bill would increase the punishment for these crimes on and after January 1, 1997, by deleting the repealer in the provision scheduled to be repealed on January 1, 1997, and by repealing the provision scheduled to be operative on and after January 1, 1997.

(4) 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: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

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

1 SECTION 1. Section 487h of the Penal Code is  
2 amended to read:

3 487h. (a) Every person who feloniously steals or  
4 takes any motor vehicle, as defined in Section 415 of the  
5 Vehicle Code, any trailer, as defined in Section 630 of the  
6 Vehicle Code, any special construction equipment, as  
7 defined in Section 565 of the Vehicle Code, or any vessel,  
8 as defined in Section 21 of the Harbors and Navigation  
9 Code, is guilty of grand theft, and upon conviction  
10 thereof, shall be punished by imprisonment in the state  
11 prison for 16 months or two or three years or a fine of not  
12 more than ten thousand dollars (\$10,000), or both, or by  
13 imprisonment in a county jail not to exceed one year or  
14 a fine of not more than one thousand dollars (\$1,000), or  
15 both.

16 (b) Any person who, having been convicted of two  
17 previous misdemeanor violations of subdivision (a),  
18 subdivision (d) of Section 487, involving an automobile,  
19 or Section 10851 of the Vehicle Code, or any combination



1 of those offenses as misdemeanors, is subsequently  
2 convicted of a violation of subdivision (a) shall be  
3 punished for the subsequent conviction by imprisonment  
4 in the state prison for two, three, or four years.

5 (c) Except in unusual cases where the interests of  
6 justice would best be served if the person is granted  
7 probation, probation shall not be granted to any person  
8 who is convicted of a felony violation of subdivision (a) or  
9 (b), and who has been previously convicted of two or  
10 more felony violations of the offense set forth in  
11 subdivision (a), the offense set forth in subdivision (d) of  
12 Section 487, subdivision (3) of former Section 487, as  
13 repealed by Section 4 of Chapter 1125 of the Statutes of  
14 1993, or former Section 487h, as repealed by Chapter 1566  
15 of the Statutes of 1990, involving a vehicle, or the offense  
16 set forth in Section 10851 of the Vehicle Code, or who has  
17 been previously convicted of one felony violation of any  
18 of those offenses and at least two misdemeanor violations  
19 of those offenses.

20 (d) If the court grants probation under subdivision  
21 (c), it shall specify on the court record the reason or  
22 reasons for that order.

23 ~~(e) This section shall remain in effect only until~~  
24 ~~January 1, 1997, and as of that date is repealed.~~

25 *SEC. 2.* Section 499b of the Penal Code is repealed.

26 *SEC. 3.* *Section 666.5 of the Penal Code, as amended*  
27 *by Section 1 of Chapter 101 of the Statutes of 1995, is*  
28 *amended to read:*

29 666.5. (a) Every person who, having been previously  
30 convicted of a felony ~~vehiele theft under~~ *violation of*  
31 Section 10851 of the Vehicle Code, or felony grand theft  
32 involving an automobile in violation of former  
33 subdivision (3) of Section 487, as that section read prior  
34 to being amended by Section 4 of Chapter 1125 of the  
35 Statutes of 1993, or Section 487h, regardless of whether or  
36 not the person actually served a prior prison term for  
37 those offenses, is subsequently convicted of any of these  
38 offenses shall be punished by imprisonment in the state  
39 prison for three, four, or five years, or a fine of ten



1 thousand dollars (\$10,000), or both the fine and the  
2 imprisonment.

3 (b) The existence of any fact which would bring a  
4 person under subdivision (a) shall be alleged in the  
5 information or indictment and either admitted by the  
6 defendant in open court, or found to be true by the jury  
7 trying the issue of guilt or by the court where guilt is  
8 established by plea of guilty or nolo contendere or by trial  
9 by the court sitting without a jury.

10 ~~(e) This section shall remain in effect only until~~  
11 ~~January 1, 1997, and as of that date is repealed.~~

12 *SEC. 4. Section 666.5 of the Penal Code is repealed.*

13 ~~666.5. (a) Every person who, having been previously~~  
14 ~~convicted of felony vehicle theft under Section 10851 of~~  
15 ~~the Vehicle Code, or felony grand theft involving an~~  
16 ~~automobile in violation of subdivision (d) of Section 487,~~  
17 ~~former subdivision (3) of Section 487, as that section read~~  
18 ~~prior to being amended by Section 4 of Chapter 1125 of~~  
19 ~~the Statutes of 1993, or Section 487h, regardless of~~  
20 ~~whether or not the person actually served a prior prison~~  
21 ~~term for those offenses, is subsequently convicted of any~~  
22 ~~of these offenses shall be punished by imprisonment in~~  
23 ~~the state prison for two, three, or four years, or a fine of~~  
24 ~~ten thousand dollars (\$10,000), or both the fine and the~~  
25 ~~imprisonment.~~

26 ~~(b) The existence of any fact which would bring a~~  
27 ~~person under subdivision (a) shall be alleged in the~~  
28 ~~information or indictment and either admitted by the~~  
29 ~~defendant in open court, or found to be true by the jury~~  
30 ~~trying the issue of guilt or by the court where guilt is~~  
31 ~~established by plea of guilty or nolo contendere or by trial~~  
32 ~~by the court sitting without a jury.~~

33 ~~(e) This section shall become operative on January 1,~~  
34 ~~1997.~~

35 *SEC. 5. No reimbursement is required by this act*  
36 *pursuant to Section 6 of Article XIII B of the California*  
37 *Constitution because the only costs that may be incurred*  
38 *by a local agency or school district will be incurred*  
39 *because this act creates a new crime or infraction,*  
40 *eliminates a crime or infraction, or changes the penalty*



1 *for a crime or infraction, within the meaning of Section*  
2 *17556 of the Government Code, or changes the definition*  
3 *of a crime within the meaning of Section 6 of Article*  
4 *XIII B of the California Constitution.*

5 *Notwithstanding Section 17580 of the Government*  
6 *Code, unless otherwise specified, the provisions of this act*  
7 *shall become operative on the same date that the act*  
8 *takes effect pursuant to the California Constitution.*

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