

AMENDED IN ASSEMBLY APRIL 11, 1996
AMENDED IN ASSEMBLY MARCH 28, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 3170

Introduced by Assembly Member Martinez

February 23, 1996

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: 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stealing or grand theft of any motor vehicle, trailer, special construction equipment, or vessel is scheduled to be repealed on January 1, 1997.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. *The bill would state that the legislative intent behind this repeal is to clarify and streamline existing law by deleting duplicative provisions and*

that this repeal shall not be construed as evidencing a legislative intent to eliminate a crime.

(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theft or felony grand theft who is subsequently convicted of any of those offenses, existing law, scheduled to be repealed on January 1, 1997, provides that the defendant shall be punished by imprisonment in the state prison for 3, 4, or 5 years, and existing law, scheduled to be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the punishment for these crimes on and after January 1, 1997, by deleting the repealer in the provision scheduled to be repealed on January 1, 1997, and by repealing the provision scheduled to be operative on and after January 1, 1997.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: yes. State-mandated local program: 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



1 a fine of not more than one thousand dollars (\$1,000), or
2 both.

3 (b) Any person who, having been convicted of two
4 previous misdemeanor violations of subdivision (a),
5 subdivision (d) of Section 487, involving an automobile,
6 or Section 10851 of the Vehicle Code, or any combination
7 of those offenses as misdemeanors, is subsequently
8 convicted of a violation of subdivision (a) shall be
9 punished for the subsequent conviction by imprisonment
10 in the state prison for two, three, or four years.

11 (c) Except in unusual cases where the interests of
12 justice would best be served if the person is granted
13 probation, probation shall not be granted to any person
14 who is convicted of a felony violation of subdivision (a) or
15 (b), and who has been previously convicted of two or
16 more felony violations of the offense set forth in
17 subdivision (a), the offense set forth in subdivision (d) of
18 Section 487, subdivision (3) of former Section 487, as
19 repealed by Section 4 of Chapter 1125 of the Statutes of
20 1993, or former Section 487h, as repealed by Chapter 1566
21 of the Statutes of 1990, involving a vehicle, or the offense
22 set forth in Section 10851 of the Vehicle Code, or who has
23 been previously convicted of one felony violation of any
24 of those offenses and at least two misdemeanor violations
25 of those offenses.

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

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

30 SEC. 3. Section 666.5 of the Penal Code, as amended
31 by Section 1 of Chapter 101 of the Statutes of 1995, is
32 amended to read:

33 666.5. (a) Every person who, having been previously
34 convicted of a felony violation of Section 10851 of the
35 Vehicle Code, or felony grand theft involving an
36 automobile in violation of former subdivision (3) of
37 Section 487, as that section read prior to being amended
38 by Section 4 of Chapter 1125 of the Statutes of 1993, or
39 Section 487h, regardless of whether or not the person
40 actually served a prior prison term for those offenses, is



1 subsequently convicted of any of these offenses shall be
2 punished by imprisonment in the state prison for three,
3 four, or five years, or a fine of ten thousand dollars
4 (\$10,000), or both the fine and the imprisonment.

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

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

13 SEC. 5. *The legislative intent behind the repeal of*
14 *Section 499b of the Penal Code, as set forth in Section 2*
15 *of this act, is to clarify and streamline existing law by*
16 *deleting the provisions of Section 499b of the Penal Code*
17 *that are generally duplicative of provisions in subdivision*
18 *(a) of Section 10851 of the Vehicle Code. The repeal of*
19 *Section 499b of the Penal Code shall not be construed as*
20 *evidencing a legislative intent to eliminate a crime.*

21 SEC. 6. No reimbursement is required by this act
22 pursuant to Section 6 of Article XIII B of the California
23 Constitution because the only costs that may be incurred
24 by a local agency or school district will be incurred
25 because this act creates a new crime or infraction,
26 eliminates a crime or infraction, or changes the penalty
27 for a crime or infraction, within the meaning of Section
28 17556 of the Government Code, or changes the definition
29 of a crime within the meaning of Section 6 of Article
30 XIII B of the California Constitution.

31 Notwithstanding Section 17580 of the Government
32 Code, unless otherwise specified, the provisions of this act
33 shall become operative on the same date that the act
34 takes effect pursuant to the California Constitution.

