

AMENDED IN SENATE JULY 7, 1996  
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

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An act to amend ~~Section 487h of~~, *Sections 487h and 499b of*, and 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stealing or grand theft of any motor vehicle, trailer, special construction equipment, or vessel is scheduled to be repealed on January 1, 1997.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 ~~repeat~~ delete the reference to any automobile, motorcycle, or other vehicle in this provision. The bill would state that the legislative intent behind this ~~repeat~~

*change* is to clarify and streamline existing law by deleting duplicative provisions and that this ~~repeal~~ *change* 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theft or felony grand theft who is subsequently convicted of any of those offenses, existing law, scheduled to be repealed on January 1, 1997, provides that the defendant shall be punished by imprisonment in the state prison for 3, 4, or 5 years, and existing law, scheduled to be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the punishment for these crimes on and after January 1, 1997, by deleting the repealer in the provision scheduled to be repealed on January 1, 1997, and by repealing the provision scheduled to be operative on and after January 1, 1997.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



1 more than ten thousand dollars (\$10,000), or both, or by  
2 imprisonment in a county jail not to exceed one year or  
3 a fine of not more than one thousand dollars (\$1,000), or  
4 both.

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

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

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

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

32 *SEC. 2. Section 499b of the Penal Code is amended to*  
33 *read:*

34 499b. Any person who shall, without the permission of  
35 the owner thereof, take any ~~automobile~~, bicycle,  
36 ~~motorcycle, or other vehicle~~ or motorboat or vessel, for  
37 the purpose of temporarily using or operating the same,  
38 shall be deemed guilty of a misdemeanor, and upon  
39 conviction thereof, shall be punished by a fine not  
40 exceeding four hundred dollars (\$400), or by



1 imprisonment not exceeding three months, or by both  
2 ~~such~~ that fine and imprisonment.

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

6 666.5. (a) Every person who, having been previously  
7 convicted of a felony violation of Section 10851 of the  
8 Vehicle Code, or felony grand theft involving an  
9 automobile in violation of former subdivision (3) of  
10 Section 487, as that section read prior to being amended  
11 by Section 4 of Chapter 1125 of the Statutes of 1993, or  
12 Section 487h, regardless of whether or not the person  
13 actually served a prior prison term for those offenses, is  
14 subsequently convicted of any of these offenses shall be  
15 punished by imprisonment in the state prison for three,  
16 four, or five years, or a fine of ten thousand dollars  
17 (\$10,000), or both the fine and the imprisonment.

18 (b) The existence of any fact which would bring a  
19 person under subdivision (a) shall be alleged in the  
20 information or indictment and either admitted by the  
21 defendant in open court, or found to be true by the jury  
22 trying the issue of guilt or by the court where guilt is  
23 established by plea of guilty or nolo contendere or by trial  
24 by the court sitting without a jury.

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

26 SEC. 5. The legislative intent behind the ~~repeal~~ of  
27 ~~amendments to~~ Section 499b of the Penal Code, as set  
28 forth in Section 2 of this act, is to clarify and streamline  
29 existing law by deleting ~~the provisions of provisions in~~  
30 Section 499b of the Penal Code that are generally  
31 duplicative of provisions in subdivision (a) of Section  
32 10851 of the Vehicle Code. ~~The repeal of These~~  
33 ~~amendments to~~ Section 499b of the Penal Code shall not  
34 be construed as evidencing a legislative intent to  
35 eliminate a crime.

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



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

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

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