

AMENDED IN SENATE AUGUST 20, 1996

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

An act to amend Sections ~~487h and 499b of, and to amend and repeal Section 666.5 of, 499b and 666.5 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stealing or grand theft of any motor vehicle, trailer, special construction equipment, or vessel is scheduled to be repealed on January 1, 1997.~~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 delete the reference to any automobile, motorcycle, or other vehicle in this provision. The bill would state that the legislative intent behind this change is to clarify and streamline existing law by deleting duplicative provisions and that this change shall not be construed as evidencing a legislative intent to eliminate a crime.

~~(3) Because this bill would increase the penalty for a crime, it would impose a state-mandated local program.~~

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theft or felony grand theft who is subsequently convicted of any of those offenses, existing law, ~~scheduled to be repealed on January 1, 1997, provides that the defendant shall be punished by imprisonment in the state prison for 3, 4, or 5 years, and existing law, scheduled to be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punishment for these crimes on and after January 1, 1997, by deleting the repealer in the provision scheduled to be repealed on January 1, 1997, and by repealing the provision scheduled to be operative on and after January 1, 1997 clarify the application of this provision.~~

~~(4)~~

(3) 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~~



1 ~~defined in Section 565 of the Vehicle Code, or any vessel,~~
2 ~~as defined in Section 21 of the Harbors and Navigation~~
3 ~~Code, is guilty of grand theft, and upon conviction~~
4 ~~thereof, shall be punished by imprisonment in the state~~
5 ~~prison for 16 months or two or three years or a fine of not~~
6 ~~more than ten thousand dollars (\$10,000), or both, or by~~
7 ~~imprisonment in a county jail not to exceed one year or~~
8 ~~a fine of not more than one thousand dollars (\$1,000), or~~
9 ~~both.~~

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

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

33 (d) ~~If the court grants probation under subdivision~~
34 ~~(e), it shall specify on the court record the reason or~~
35 ~~reasons for that order.~~

36 **SEC. 2.**

37 *SECTION 1.* Section 499b of the Penal Code is
38 amended to read:

39 499b. Any person who shall, without the permission of
40 the owner thereof, take any bicycle or motorboat or



1 vessel, for the purpose of temporarily using or operating
2 the same, shall be deemed guilty of a misdemeanor, and
3 upon conviction thereof, shall be punished by a fine not
4 exceeding four hundred dollars (\$400), or by
5 imprisonment not exceeding three months, or by both
6 that fine and imprisonment.

7 ~~SEC. 3. Section 666.5 of the Penal Code, as amended~~
8 ~~by Section 1 of Chapter 101 of the Statutes of 1995, is~~
9 ~~amended to read:~~

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

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

29 ~~SEC. 4. Section 666.5 of the Penal Code is repealed.~~

30 ~~SEC. 5.~~

31 ~~SEC. 2. Section 666.5 of the Penal Code, as amended~~
32 ~~by Section 2 of Chapter 101 of the Statutes of 1995, is~~
33 ~~amended to read:~~

34 ~~666.5. (a) Every person who, having been previously~~
35 ~~convicted of felony vehicle theft under a felony violation~~
36 ~~of Section 10851 of the Vehicle Code, or felony grand theft~~
37 ~~involving an automobile in violation of subdivision (d) of~~
38 ~~Section 487, former subdivision (3) of Section 487, as that~~
39 ~~section read prior to being amended by Section 4 of~~
40 ~~Chapter 1125 of the Statutes of 1993, or Section 487h,~~



1 regardless of whether or not the person actually served a
2 prior prison term for those offenses, is subsequently
3 convicted of any of these offenses shall be punished by
4 imprisonment in the state prison for two, three, or four
5 years, or a fine of ten thousand dollars (\$10,000), or both
6 the fine and the imprisonment.

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

14 ~~(c) This section shall become operative on January 1,~~
15 ~~1997.~~

16 *SEC. 3.* The legislative intent behind the
17 amendments to Section 499b of the Penal Code, as set
18 forth in Section 2 1 of this act, is to clarify and streamline
19 existing law by deleting provisions in Section 499b of the
20 Penal Code that are generally duplicative of provisions in
21 subdivision (a) of Section 10851 of the Vehicle Code.
22 These amendments to Section 499b of the Penal Code
23 shall not be construed as evidencing a legislative intent to
24 eliminate a crime.

25 ~~*SEC. 6.*~~

26 *SEC. 4.* No reimbursement is required by this act
27 pursuant to Section 6 of Article XIII B of the California
28 Constitution because the only costs that may be incurred
29 by a local agency or school district will be incurred
30 because this act creates a new crime or infraction,
31 eliminates a crime or infraction, or changes the penalty
32 for a crime or infraction, within the meaning of Section
33 17556 of the Government Code, or changes the definition
34 of a crime within the meaning of Section 6 of Article
35 XIII B of the California Constitution.

36 Notwithstanding Section 17580 of the Government
37 Code, unless otherwise specified, the provisions of this act



1 shall become operative on the same date that the act
2 takes effect pursuant to the California Constitution.

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