
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair

2015 - 2016 Regular

Bill No: SB 510 **Hearing Date:** April 28, 2015
Author: Hall
Version: April 16, 2015
Urgency: No **Fiscal:** Yes
Consultant: MK

Subject: *Speed Contests: Impounded Vehicles*

HISTORY

Source: Los Angeles County Sheriff's Department

Prior Legislation: SB 67 (Perata) - Chapter 727, Stats. 2007
SB 1489 (Perata) - Chapter 411, Stats. 2002
AB 2288 (Aguiar) - Chapter 884, Stats. 1996
SB 833 (Bonta) - Chapter 922, Stats. 1995
AB 5 - Chapter 3, Stats. 1959

Support: The Association for Los Angeles Deputy Sheriffs; California Law Enforcement Association of Records Supervisors, Inc.; The Los Angeles Police Protective League; The Riverside Sheriffs Association

Opposition: None known

PURPOSE

The purpose of this bill is to mandate that a court order the impoundment of a vehicle used in street racing and to clarify that a vehicle must be repaired after it is released from impound.

Existing law provides that any person who drives any vehicle upon a highway in willful or wanton disregard for the safety of persons or property is guilty of reckless driving. A person who drives any vehicle in any off-street parking facility in a willful or wanton disregard for the safety of persons or property is guilty of reckless driving. (Vehicle Code § 23103.)

Existing law provides that when a person is arrested for a speed contest the officer may impound the vehicle for not more than 30 days. The registered and legal owner of the vehicle shall be provided with a hearing regarding the storage and the vehicle shall be returned before the conclusion of the impoundment period under the following circumstances:

- If the vehicle is a stolen vehicle;
- If the person alleged to have engaged in the speed contest was not authorized by the registered owner to drive the vehicle at the time of the offense;
- If the legal or registered owner is a rental agency;
- If the citation is dismissed and criminal charges are not filed.

- To the legal owner if the legal owner pays the impoundment fees and presents foreclosure documents. (Vehicle Code § 23109.2.)

Existing law provides that no person shall engage in any motor vehicle speed contest which includes a motor vehicle race against another vehicle, a clock, or other timing device. Existing law also prohibits aiding or abetting in a speed contest. Existing law also prohibits the exhibition of speed in any motor vehicle or the aiding and abetting of the exhibition of speed. The penalty for a speed contest or the exhibition of speed is a misdemeanor punishable as a first offense by 24 hours to 90 days in jail and/or a fine of \$355-\$1,000 and for a second offense within five years 4 days to six months in jail and a fine of \$500-\$1,000. (Vehicle Code § 23109 (a).)

Existing law states that if a person is convicted of a street racing violation, and the vehicle used during the violation is registered to the person, the vehicle may be impounded at the registered owner's expense for between one and 30 days. (Vehicle Code §23109 (h).)

This bill changes the “may” to a “shall” and thus provides that the vehicle shall be impounded.

Existing law provides that a person shall not operate a vehicle impounded on any public or road if the vehicle is inspected and found in violation of the code without first correcting the violation. (Vehicle Code § 23109(h)(2).)

This bill also prohibits operation of the vehicle if the impounded vehicle was found to be in violation of a mechanical requirement of this code without first correction of the violation.

RECEIVERSHIP/OVERCROWDING CRISIS AGGRAVATION

For the past eight years, this Committee has scrutinized legislation referred to its jurisdiction for any potential impact on prison overcrowding. Mindful of the United States Supreme Court ruling and federal court orders relating to the state's ability to provide a constitutional level of health care to its inmate population and the related issue of prison overcrowding, this Committee has applied its “ROCA” policy as a content-neutral, provisional measure necessary to ensure that the Legislature does not erode progress in reducing prison overcrowding.

On February 10, 2014, the federal court ordered California to reduce its in-state adult institution population to 137.5% of design capacity by February 28, 2016, as follows:

- 143% of design bed capacity by June 30, 2014;
- 141.5% of design bed capacity by February 28, 2015; and,
- 137.5% of design bed capacity by February 28, 2016.

In February of this year the administration reported that as “of February 11, 2015, 112,993 inmates were housed in the State's 34 adult institutions, which amounts to 136.6% of design bed capacity, and 8,828 inmates were housed in out-of-state facilities. This current population is now below the court-ordered reduction to 137.5% of design bed capacity.”(Defendants' February 2015 Status Report In Response To February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).

While significant gains have been made in reducing the prison population, the state now must stabilize these advances and demonstrate to the federal court that California has in place the

“durable solution” to prison overcrowding “consistently demanded” by the court. (Opinion Re: Order Granting in Part and Denying in Part Defendants’ Request For Extension of December 31, 2013 Deadline, NO. 2:90-cv-0520 LKK DAD (PC), 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (2-10-14)). The Committee’s consideration of bills that may impact the prison population therefore will be informed by the following questions:

- Whether a proposal erodes a measure which has contributed to reducing the prison population;
- Whether a proposal addresses a major area of public safety or criminal activity for which there is no other reasonable, appropriate remedy;
- Whether a proposal addresses a crime which is directly dangerous to the physical safety of others for which there is no other reasonably appropriate sanction;
- Whether a proposal corrects a constitutional problem or legislative drafting error; and
- Whether a proposal proposes penalties which are proportionate, and cannot be achieved through any other reasonably appropriate remedy.

COMMENTS

1. Need for The Bill

According to the author:

Illegal street racing is a growing danger to those behind the wheel, passengers, spectators and innocent passers-by that may be injured or killed. Reports of innocent people being assaulted and vehicles being vandalized for simply trying to drive around illegal racing activities are on the rise. Illegal drug use, drunk driving, stolen vehicles and stolen weapons are among the offenses that are cited by law enforcement when street racing events are broken up.

Many of the vehicles cited for street racing have undergone thousands of dollars in dangerous and illegal modifications. These modifications include radar jammers, lowered frames, air and hydraulic suspension systems, window tinting, missing bumpers, engine modifications, multicolored headlights, and excessively noisy exhaust systems and mufflers.

Currently, a vehicle used for illegal street racing may be impounded at the expense of the owner for one to 30 days upon conviction. After this time, the vehicle is returned to the owner with the illegal modifications intact. This allows the owner to immediately begin using the vehicle for illegal street racing activities; endangering themselves and innocent passers-by.

This bill seeks to remedy this deficiency in current law by requiring a longer impound, and removal of illegal modifications for purposes of street racing.

2. Mandatory Impound

Existing law provides that law enforcement may impound for 30 days upon arrest and a court may impound upon conviction of a street contest violation. This bill would provide that the court *shall* impound a car upon a violation of street racing.

Street racing has been an ongoing issue in some communities in California. The Los Angeles Sheriffs recently worked with the CHP on an operation to stop street racers in South Los Angeles County:

The operation, centered near the intersection of Broadway and Imperial Highway, Unincorporated South Los Angeles, was spearheaded by personnel from Carson Sheriff's Station. The operation utilized law enforcement personnel from Century, South Los Angeles, Compton, and Lakewood Sheriff's Stations, officers from the California Highway Patrol and LASD Aero Bureau. The operation included 44 arrests that ranged from warrant arrests to drug related offenses. Unlicensed drivers and those driving on a suspended license were also part of the 209 citations issued, in addition to the 54 vehicles that were towed. Social media is used to promote the gathering of vehicles to participate in illegal activities and often draws upwards of 300 vehicles and more than 500 spectators. Street racing and cruising is not only a public nuisance, it is highly dangerous. Street racing often results in traffic collisions, injuries and fatalities. (LA Sheriff Press Release dated April 20, 2015)

3. Double Impoundment?

In addition to the court impounding the vehicle, the law allows law enforcement to impound a vehicle up to 30 days at the scene of the violation. This bill would make the court impoundment mandatory. Should the bill be amended to create an exception to the mandatory court impoundment for those cars that have already been impounded under the section allowing law enforcement to impound so that there is not double impoundment of the same vehicle?

4. Family Necessity?

Although it is unusual in cars used in street racing to be the only car in a family, in other cases of impounding car we have given the court to not impound the vehicle if the court finds that it is the sole means of transportation for other members of the family. Should the bill be amended to make it clear that the court has the discretion to not impound the car if it finds that it is the sole means of transportation for other family members?

5. Correction Language

This bill provides that a person shall not drive a vehicle that is impounded until any mechanical or other issues have been corrected. By the time the person is convicted in court and their car impounded, any fix-it tickets should have been corrected since the time frame for correction is usually 30 days (Vehicle Code § 40610) Also the language is unclear that the person must make the corrections after the impound. Should this language be clarified to state that the vehicle shall be corrected, unless it has already been corrected, and that correction shall be filed with the court within 30 days?