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# SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

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**Bill No:** AB 3085                      **Hearing Date:** July 2, 2024  
**Author:** Gipson  
**Version:** April 8, 2024  
**Urgency:** No                                      **Fiscal:** No  
**Consultant:** MK

**Subject:** *Vehicles: removal and impoundment*

## HISTORY

**Source:** Author

**Prior Legislation:** AB 74 (Muratsuchi) Failed Assm. Trans. 2023  
AB 822 (Alanis) not heard ACoPS 2023  
AB 2000 (Gabriel) Chapter 436, Stats. 2022  
AB 3 (Fong) Chapter 106, Stats. 2021  
AB 410 (Nazarian) failed Assem. Public Safety 2019  
SB 699 (Galgiani) amended out in Assembly 2017  
SB 67 (Perata) Chapter 727, Stats. 2007  
AB 1325 (Vargas) Chapter 475, Stats. 2005  
SB 1541 (Margett) Chapter 595, Stats. 2004  
AB 985 (Vargas) - failed Senate Public Safety 2004  
AB 1341 (Para) - 6/9/04 version, failed Sen Public Safety 2004  
AB 2440 (Shirley Horton) - held Assembly Appropriations 2004  
SB 1489 (Perata) Chapter 411, Stats. 2002  
SB 2087 (Soto) - died on inactive file Senate Floor 2002  
AB 2288 (Aguiar) Chapter 884, Stats. 1996  
SB 833 Chapter 922, Stats. 1995  
SB 1738 Chapter 1221, Stats. 1994  
AB 5 Chapter 3, Stats. 1959

**Support:** California Association of Highway Patrolmen; California Contract Cities Association; California District Attorneys Association; City of Los Angeles; Los Angeles County Sheriff's Department; Peace Officers Research Association of California (PORAC)

**Opposition:** None known

**Assembly Floor Vote:** 66 - 0

## PURPOSE

*The purpose of this bill is to expand the list of offenses for which a peace officer may impound a vehicle pursuant to a warrant or order issued by a magistrate to include a vehicle that was used in a speed contest or exhibition of speed.*

*Existing law* provides that a person shall not engage in an exhibition of speed on a highway or in an offstreet parking facility. (Vehicle Code Section 23109 (a))

*Existing law* defines “exhibition of speed” as accelerating or driving at a rate of speed that is dangerous and unsafe in order to show off or make an impression on someone else. (*People v. Grier* (1964) 226 Cal.App.2d 360, 364.)

*Existing law* defines “speed contest” as a motor vehicle race against another vehicle, a clock, or other timing device. (Vehicle Code Section 23109(a) )

*Existing law* provides that a person shall not engage in a speed contest on a highway or in an offstreet parking facility. (Vehicle Code Section 23109 (a))

*Existing law* provides that a persons shall not engage in a motor vehicle exhibition of speed on a highway or in an offstreet parking facility, and shall not aid or abet in a motor vehicle exhibition or speed on any highway or in an offstreet parking facility. (Vehicle Code Section 23109 (c))

*Existing law* allows a peace officer to immediately arrest and take into custody a person engaged in a speed contest, and to remove and impound the vehicle used in the offense for up to 30 days. (Vehicle Code Section 23109.2)

*Existing law* authorizes a peace officer to impound a vehicle for a period not to exceed 30 days upon the order of a magistrate for fleeing a peace officer or for reckless driving. (Vehicle Code Section 14602.7)

*Existing law* requires the impounding agency to notify the legal owner of the vehicle within two working days of the impoundment by certified mail at the address provided by the Department of Motor Vehicles. (Vehicle Code Section 14602.7)

*Existing law* provides that failure to notify the legal owner of the impoundment shall result in the impounding agency from charging for more than 15 days of the impoundment when the legal owner redeems the impounded vehicle. (Vehicle Code Section 14602.7)

*Existing law* requires the impounding agency to release the vehicle to the registered owner if the vehicle was stolen, the vehicle was subject to bailment and was driven by an employee of the business, or the peace officer reasonably believes that the registered owner was not the driver who fled the police. (Vehicle Code Section 14602.7)

*Existing law* provides that a vehicle shall not be released without a currently valid driver’s license to operate the vehicle and proof of current vehicle registration, or upon order of the court. (Vehicle Code Section 14602.7)

*Existing law* provides the opportunity for the owner of the vehicle to contest the impoundment in a posts storage hearing to determine the validity of the storage. (Vehicle Code Section 14602.7)

*Existing law* authorizes the magistrate to release the vehicle if the continued impoundment will cause undue hardship to persons dependent upon the vehicle for employment or to a person with a community property interest in the vehicle. (Vehicle Code Section 14602.7)

*Existing law* authorizes a vehicle to be released before the impoundment period is over if the legal owner is a motor vehicle dealer, bank, credit union, acceptance corporation or other licensed financial institution if they pay the costs of the towing and storage. (Vehicle Code Section 14602.7)

*This bill* also allows a peace officer to get a warrant to impound a vehicle that was used in a speed contest.

## COMMENTS

### 1. Impounding a Vehicle

SB 1758 (Kopp) Chapter 1221, Statutes of 1994 gave law enforcement a new tool to enforce vehicle code violations—the ability to impound someone’s vehicle for driving while unlicensed (DWU) or driving with a suspended license (DWS).

As a result of that law, the Department of Motor Vehicles (DMV), in conjunction with the National Highway Traffic Safety Administration commissioned a series of studies to evaluate the deterrence effect of impounding a vehicle. While a study on the general deterrent effect of the law “did not find compelling evidence of a general deterrent impact of vehicle impoundment and forfeiture on crashes for one of the main groups it targets,” another study on the specific deterrent effect found the law had a great impact on future traffic offenses.

The DMV report, *An Evaluation of the Specific Deterrent Effect of Vehicle Impoundment on Suspended, Revoked and Unlicensed Drivers in California* (DeYoung, 1997), found that first-time offenders who had their vehicles impounded for DWU or DWS saw a 23.8% drop in subsequent convictions for DWU or DWS. For repeat offenders, subsequent violations dropped 34.2%.

After SB 1758, the Legislature began expanding the violations for which a vehicle could be impounded. AB 2288 (Aguilar), Chapter 884, Statutes of 1996 expanded vehicle impoundments to include speed contests. SB 1489 (Perata) Chapter 411, Statutes of 2002, also known as the U’kendra K. Johnson Memorial Act, granted law enforcement the ability to impound a vehicle for reckless driving after Ms. Johnson was killed by a vehicle fleeing a sideshow. While existing law permits law enforcement to go to a magistrate to seek a 30-day impoundment for reckless driving or fleeing the police, the code section does not explicitly permit law enforcement to go to a judge to ask for an impoundment for a vehicle where the person is being charged with engaging in a speed contest or a motor vehicle exhibition of speed.

During the COVID-19 pandemic lockdowns, cities saw an increase in street racing and sideshows, in part because there were fewer vehicles on the road. The California Highway Patrol (CHP) responded to 25,953 calls involving a motor vehicle speed contest or exhibition of speed in 2020, nearly 3,500 more calls than the prior year. In 2020, CHP cited 341 individuals with a violation of motor vehicle exhibition of speed, 141 more than the year before.

Citations and calls reporting speed racing and motor vehicle exhibitions of speed have continued to grow. In 2022, CHP received over 31,000 calls involving a motor vehicle speed contest or motor vehicle exposition of speed. That number dropped to 27,265 in 2023. CHP issued 1,487 citations for the two violations in 2022 and 2023.

Various bills have been introduced over the years to permit a 30-day impoundment of a vehicle after a person is convicted. SB 510 (Hall) of 2015 and AB 1393 (Friedman) of 2017 were vetoed by Governor Brown, and AB 1407 (Friedman) of 2019 was vetoed by Governor Newsom. In Governor Newsom's veto message of AB 1407, he stated:

This bill would impose a mandatory 30-day impound penalty for a vehicle used in connection with reckless driving or street racing on a second or subsequent conviction.

Under current law, a conviction for reckless driving is punishable by a total fine of between \$684 and \$4,175 and possible jail time of between 5 and 90 days. A conviction for engaging in a first-offense speed contest is punishable by a total fine of between \$1,551 and \$4,175, jail time between 1 and 90 days, 40 hours of community service, and potential driver's license suspension between 90 days and 6 months. Subsequent convictions have even stronger penalties.

Courts currently have the authority to impound vehicles based on the totality of facts and circumstances of each case. This bill reduces the courts' discretion in deciding to impound a vehicle, as well as the length of time the vehicle is impounded.

I am not persuaded that limiting judicial discretion for these cases is warranted.

Unlike previous bills vetoed by Governor Brown and Governor Newsom, this bill provides judicial discretion on whether or not to permit an impoundment and is not a mandatory 30-day impoundment. Further, unlike previous bills, this bill permits a magistrate closer in time to the event of the speed contest or motor vehicle exhibition of speed to impound the vehicle, instead of doing so months or years later upon a conviction.

## **2. Related legislation**

AB 1978 (Sanchez) also being heard today would authorize a peace officer to impound a vehicle without taking the driver into custody for obstructing or placing a barricade or obstruction on a highway or in an offstreet parking facility for the purpose of facilitating or aiding a motor vehicle speed contest or exhibition of speed.

## **3. Argument in Support**

California Association of Highway Patrolmen support this bill stating:

AB 3085 would increase the penalties for these offenses when the violations occur as part of a vehicle sideshow. The bill would make a violation of these offenses punishable as a misdemeanor or felony. The bill would also, upon conviction, require the court to order the defendant to attend and complete a victim impact program. AB 3085 would authorize the court to have the vehicle impounded for up to 30 days, unless there is an undue hardship or other good cause.

Street takeovers, sideshows, and racing are all acts of reckless driving that put people's lives at risk. By increasing the penalties for these acts, more individuals will be deterred from committing these crimes.