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## **SENATE COMMITTEE ON PUBLIC SAFETY**

**Senator Steven Bradford, Chair**

**2021 - 2022 Regular**

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**Bill No:** AB 3                    **Hearing Date:** July 13, 2021

**Author:** Fong

**Version:** June 16, 2021

**Urgency:** No

**Consultant:** MK

**Fiscal:** Yes

**Subject:** *Exhibition of speed on a highway: punishment*

### **HISTORY**

**Source:** Author

Prior Legislation: 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: AAA Clubs of Southern California, Northern California, Nevada and Utah; California Association of Highway Patrolmen; California Police Chiefs Association; California State Sheriffs' Association; City of Bakersfield; County of Kern; Peace Officers Research Association of California (PORAC); Sacramento County; Stop4aidan; Street Racing Kills

Opposition: None known with proposed amendments

Assembly Floor Vote: 68 - 6

**This analysis reflects author's amendments to be offered in Committee. Amendments also set forth in Comment 4.**

### **PURPOSE**

*The purpose of this bill is to allow for a driver's license suspension for conviction of engaging in an exhibition of speed when the violation occurred during a sideshow.*

*Existing law* prohibits engaging in a motor vehicle speed contest (VC 23109(a)), and provides for punishment of between 24 hours and 90 days imprisonment and/or a fine of between \$355 and \$1,000 and 40 hours of community service. A driver's license suspension of from 90 days to six months may also be ordered. (VC 23109(e)). The vehicle may be immediately impounded by a peace officer for up to 30 days (VC 23109.2(a)).

*Existing law* prohibits engaging in a motor vehicle exhibition of speed (VC 23109(c)), and provides for punishment by imprisonment of up to 90 days and/or a fine of up to \$500 (VC 23109(i)). The vehicle may be immediately impounded by a peace officer for up to 30 days (VC 23109.2(a)).

*This bill*, as proposed to be amended, provides that in addition to the existing penalties, a person engaging in a motor vehicle exhibition of speed, while participating in a "sideshow", may have his or her driver's license suspended of from 90 days to six months.

*This bill*, as proposed to be amended, provides that when the court is considering the suspension the court shall consider whether a medical, personal, or family hardship exists that requires a person to have a driver's license.

*This bill*, as proposed to be amended, provides that the court can restrict the driver's license to driving related to work or education and the court shall consider hardships that make the driver's license necessary.

*This bill* defines "sideshow" as an event in which two or more persons block or impede traffic on the highway, for the purpose of performing motor vehicle stunts, motor vehicle speed contests, motor vehicle exhibitions of speed, or reckless driving , for spectators.

## COMMENTS

### 1. Need for This Bill

According to the author:

Last year alone, *CHP responded to over 25,000 calls involving exhibition of speed and street racing and reported a nearly 300% surge in Motor Vehicle Exhibition of Speed citations over the past 5 years.*

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According to the [National Highway Traffic Safety Administration](#), speeding is a factor in nearly one-third of all motor vehicle fatalities. One particularly dangerous form of speeding is street racing: an unsanctioned form of engaging in a motor vehicle race against another vehicle, a clock, or other timing devices.

California has seen [a sharp rise in illegal street racing](#) as street racers take advantage of highways, parking lots, and roads emptied by the coronavirus pandemic. Illegal street racing is not only dangerous, but it often has fatal consequences for participants, pedestrians, commuters, and law enforcement alike.

In November of 2019, a [street racer struck a minivan in Bakersfield, CA](#). The collision sent the minivan into the path of an oncoming truck and killed the

minivan's driver Maria Blaney Navarro, 58, and seriously injured her two grandchildren.

On October 1<sup>st</sup>, 2020, the [California Highway Patrol \(CHP\) launched the Communities Against Racing and Side Shows campaign](#). The yearlong campaign will focus on statewide public awareness campaigns on speed-related crashes and focused enforcement.

Illegal street races often stem from “motor vehicle exhibition of speed,” which is most commonly recognized as a “[sideshow](#)” which includes performing stunts, wheelies, donuts, and other activity at high speeds intended for an audience.

Last March, the [CHP reported to a sideshow in Exeter, California](#). Crowds blocked all four points of an intersection while drivers performed burns outs. The driver’s vehicle tire failed, he lost control of the vehicle, crashed into a tree, and died on the scene.

In April of 2020, the [California Highway Patrol broke up a sideshow](#) with over 150 congregated cars in Sacramento. When participants fled the scene, one vehicle lost control and smashed into the patrol car.

In September of 2020, a Sacramento State student was [hospitalized in critical condition after getting run over by driver who lost control of the vehicle while burning out in figure-eight motions at a sideshow](#). The driver and crowds fled the scene, and the student suffered a severe brain injury, internal bleeding, and several broken bones.

AB 3 would match the penalties for the exhibition of speed, or participating in sideshows, with the penalties for illegal street racing.

## 2. Exhibition of speed

This bill deals with exhibitions of speed, which is when an individual accelerates or drives at a rate of speed that is dangerous and unsafe in order to show off or make an impression on someone else. Side shows, where vehicles do dangerous stunts (e.g. tire burnouts while the vehicle moves in a circle sometimes surrounded by spectators), are exhibitions of speed. So too is a too-fast acceleration from a red light. Exhibition of speed is not the same as a speed contest, which is when a driver is racing in competition against either another driver or a timing device. As a practical matter, it can sometimes be hard to charge an individual with a street race if the other racers are not apprehended, in which case the driver would be charged with an illegal exhibition of speed.

CHP data indicates that speed violations are increasing. Since 2018, citations for speed contests have grown by 175%, albeit to only 846 citations in 2020. Citations for exhibitions of speed have grown by 25% over that same period, though again only to 341 citations. Data also indicates that calls to a CHP dispatch center for speed violations have increased 15% from 2018 through 2020.

Current law allows a peace officer to immediately impound a vehicle for an exhibition of speed for up to 30 days, though the impounding agency is responsible for the actual costs incurred by the towing agency if the registered owner is absolved of liability.

This bill, as proposed to be amended, would allow a court to suspend a the driver's license of a person convicted of exhibition of speed for 90 days to 6 months if the violation occurred as part of a "sideshow". However, the court may instead order a restricted license if the person needs a driver's license to get to and from his or her employment or education. The bill, as proposed to be amended, also says the court shall consider whether a medical, personal, or family hardship exists that requires a driver's license before suspending or restricting the person's license.

### 3. Argument in Support

The AAA Clubs of Southern California, Northern California, Nevada and Utah support this bill stating:

Vehicle sideshows are illegal gatherings where drivers perform risky stunts and maneuvers. They are dangerous in themselves but often lead to deadlier street racing events. While persons convicted of engaging in sideshows face the possibility of fines and jail time, only those convicted of illegal street racing are subject to a 90-day to 6- month driver's license suspension. However, both events attract a similar audience and are closely related. The AAA Clubs believe that license suspension is an appropriate penalty that, in coordination with strong enforcement and community education, will help discourage more car enthusiasts from attending both high-risk gatherings.

The AAA Clubs agree that illegal sideshows and street races are concerning for the safety of all road users. We support education campaigns to deter these activities and provide opportunities to move enthusiasts to closed tracks that are relatively safer for everyone. But where those campaigns and other measures have come up short, we believe driver's license suspension is an effective supplemental measure that should be applied to both types of convictions. We encourage you to do the same and support AB 3.

### 4. Amendments

**The following amendments to be taken in Committee will remove the opposition of the California Public Defenders Association and the ACLU Action:**

**Page 27 line 5 (i) (1)** A person who violates subdivision (b), (c), or (d) shall upon conviction of that violation be punished by imprisonment in a county jail for not more than 90 days, by a fine of not more than five hundred dollars (\$500), or by both that fine and imprisonment.

**(2)** The court may order the privilege to operate a motor vehicle suspended for 90 days to six months for a person who violates subdivision (c), as provided in paragraph (8) of subdivision (a) of Section 13352. 13352, *only if the violation occurred as part of a sideshow. When the court is considering suspending the privilege to operate a motor vehicle the court shall consider whether a medical, personal, or family hardship exists that requires a person to have a driver's license.*

**(3)** The person's privilege to operate a motor vehicle may be restricted for 90 days to six months to necessary travel to and from that person's place of employment *or for education purposes* and, if driving a motor vehicle is necessary to perform the duties of

the person's employment, restricted to driving in that person's scope of employment. *When the court is considering restricting the privilege to operate a motor vehicle the court shall also consider whether a medical, personal, or family hardship exists that requires a person to have a driver's license for such limited purpose as the court deems necessary to address the hardship.* This subdivision does not interfere with the court's power to grant probation in a suitable case.

(4) *For purposes of this section, "sideshow" is defined as an event in which two or more persons block or impede traffic on a highway, for the purpose of performing motor vehicle stunts, motor vehicle speed contests, motor vehicle exhibitions of speed, or reckless driving, for spectators.*

-- END --