



AB 410: MOTOR VEHICLE SIDESHOWS
ASSEMBLY MEMBER ADRIN NAZARIAN

Bill Summary:

AB 410 would define a motor vehicle sideshow and outline penalties for participation. The bill would make the first conviction of a sideshow a misdemeanor and the subsequent convictions either a misdemeanor or a felony. AB 410 permits a law enforcement officer to impound a participant's vehicle for up to 30 days.

Problem:

According to the *Los Angeles Times*, 179 people have died in Los Angeles County between 2000 and 2017 in incidents where street racing was suspected. The *Times* notes that from July 2016 to July 2017, the California Highway Patrol recorded nearly 700 racing incidents in Los Angeles County. Those races involved roughly 17,000 vehicles and 22,000 people. Popular culture and social media have exacerbated the rise in street racing and other illegal activities on our roads and highways, including sideshows.

Increasing in popularity, a sideshow involves participants setting up blockades on a highway with drivers engaging in dangerous driving behavior including 360 degree tire burnouts, otherwise known as spinning donuts. In August 2018, a sideshow on the Bay Bridge shut down the westbound lanes and created miles of traffic for drivers heading into San Francisco.

Sideshows normally have designated spots picked, shutdown major freeways, and have zero respect for the general public. Sideshows have even been organized on social media. These events can lead to traffic collisions, vandalism, and violence. Participants in some cases have clashed with law enforcement orders to disperse.

While many reckless driving activities are illegal, organizing a sideshow is not considered a crime. Additionally, law enforcement agencies can wind up paying for impound fees on cars taken during sideshows when there is no clear conviction. Law enforcement agencies can be responsible for towing and storage costs incurred as a result of vehicle impoundment if criminal charges are not filed by the district attorney because of a lack of evidence, or if the charges are otherwise dismissed by the court. Current law also affords the owner of the vehicle the ability to retrieve it within days of impoundment.

Solution:

AB 410 would define a sideshow as a demonstration of automotive stunts organized by two or more people often occurring on a public street, highway, or private property open to the general public to block or impede traffic. It would specify that common activities at sideshows include motor vehicle stunting, motor vehicle speed contests, reckless driving, and speed chases.

Clearly defining a motor vehicle sideshow will deter participation, support law enforcement, and keep our roads safer. As social media evolves and creates new avenues for event organizers, law enforcement should be given clear direction on how to combat the proliferation of motor vehicle sideshows.

Under this measure, a participant would mean a driver, a passenger, and an organizer who barricades or prevents access to a public street, facilitates, encourages, or promotes a sideshow. Likewise, a 30 day car impoundment penalty will prevent the reckless driver from being able to retrieve



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their car within days of the car being impounded.

AB 410 is a simple and necessary step to protect public safety. Through clear definitions and penalties, this policy will clarify that no individual can get away with these reckless activities.

Sideshows in Action:

Click on the links below for video coverage of motor vehicle sideshows:

https://youtu.be/x_cm_U2ZE1E

<https://youtu.be/PRjZfK3e7BA>

Support:

None on file

Opposition:

None on file

Staff Contact:

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AMENDMENTS TO ASSEMBLY BILL NO. 410

Amendment 1

In the title, in line 1, strike out "amend Section 23103 of" and insert:

add Section 23108 to

Amendment 2

On page 1, before line 1, insert:

SECTION 1. Section 23108 is added to the Vehicle Code, to read:

23108. (a) A person who actively participates in, or aids and abets, a motor vehicle sideshow, as defined in subdivision (d), is guilty of a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year, by a fine not to exceed ten thousand dollars (\$10,000), or by both that imprisonment and fine.

(b) A second or subsequent conviction of this section is a misdemeanor or a felony punishable by imprisonment in a county jail for a period not to exceed one year or imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, by a fine not to exceed twenty-five thousand dollars (\$25,000), or by both imprisonment and fine, except in unusual circumstances in which the interests of justice would be better served by the imposition of a lesser sentence.

(c) A person convicted of a violation of this section that proximately causes bodily injury to a person other than the driver is guilty of a felony punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, by a fine of not to exceed twenty-five thousand dollars (\$25,000), or by both the fine and imprisonment.

(d) "Motor vehicle sideshow" means an event in which two or more persons block or impede traffic on a highway or other public place open to vehicle traffic, or access private property without the consent of the owner, operator, or agent thereof, for the purpose of performing motor vehicle stunts, motor vehicle speed contests, motor vehicle exhibitions of speed, or reckless driving, for spectators.

(e) Participants in a motor vehicle sideshow include drivers or passengers of the involved motor vehicles, and any pedestrians, drivers, or passengers who barricade or prevent access to a highway or other property where the motor vehicle sideshow is being performed. An aider or abettor to a motor vehicle sideshow includes any person who organizes, facilitates, encourages, or promotes a motor vehicle sideshow.

(f) Liability for a violation of this section shall not be imposed upon a person who is merely present as a spectator at a place where a violation is occurring.

(g) (1) A magistrate presented with the affidavit of a peace officer establishing reasonable cause to believe that a vehicle, described by vehicle type and license number, was an instrumentality used in the peace officer's presence in violation of this section, shall issue a warrant or order authorizing any peace officer to immediately seize and cause the removal of the vehicle. The warrant or court order may be entered into a computerized database. A vehicle so impounded may be impounded for a period not to exceed 30 days.



(2) The impounding agency, within two working days of impoundment, shall send a notice by certified mail, return receipt requested, to the legal owner of the vehicle, at the address obtained from the department, informing the owner that the vehicle has been impounded. Failure to notify the legal owner within two working days shall prohibit the impounding agency from charging for more than 15 days' impoundment when the legal owner redeems the impounded vehicle. The impounding agency shall maintain a published telephone number that provides information 24 hours a day regarding the impoundment of vehicles and the rights of a registered owner to request a hearing. The law enforcement agency shall be open to issue a release to the registered owner or legal owner, or the agent of either, whenever the agency is open to serve the public for nonemergency business.

(h) (1) An impounding agency shall release a vehicle to the registered owner or the registered owner's agent prior to the end of the impoundment period, without the need to obtain authorization from the magistrate authorizing the vehicle's seizure, under any of the following circumstances:

(A) If the vehicle is stolen.

(B) If the vehicle is subject to bailment and the violation of this section was committed by an employee of a business establishment, including a parking service or repair garage.

(C) If the registered owner of the vehicle causes a peace officer to reasonably believe, based on the totality of the circumstances, that the registered owner was not the person who violated this section, the agency shall immediately release the vehicle to the registered owner or the registered owner's agent.

(2) A vehicle shall not be released pursuant to this subdivision, except upon presentation of the registered owner's or agent's currently valid driver's license to operate the vehicle and proof of current vehicle registration, or upon order of the court.

(i) (1) If a vehicle is impounded pursuant to this section, the magistrate ordering the storage shall provide the vehicle's registered and legal owners of record, or their agents, with the opportunity for a poststorage hearing to determine the validity of the storage.

(2) A notice of the storage shall be mailed or personally delivered to the registered and legal owners within 48 hours after issuance of the warrant or court order, excluding weekends and holidays, by the person or agency executing the warrant or court order, and shall include all of the following information:

(A) The name, address, and telephone number of the agency providing the notice.

(B) The location of the place of storage and a description of the vehicle, which shall include, if available, the name or make, the manufacturer, the license plate number, and the mileage of the vehicle.

(C) A copy of the warrant or court order and the peace officer's affidavit, as described in subdivision (g).

(D) A statement that, in order to receive their poststorage hearing, the owners, or their agents, are required to request the hearing from the magistrate issuing the warrant or court order in person, in writing, or by telephone, within 10 days of the date of the notice.

(3) The poststorage hearing shall be conducted within two court days after receipt of the request for the hearing.

(4) At the hearing, the magistrate may order the vehicle released if the magistrate finds that any of the circumstances described in subdivision (h) or (k) that allow release of a vehicle by the impounding agency apply. The magistrate may also consider releasing the vehicle when the magistrate finds that 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 or if the public safety considerations for continued impoundment do not outweigh the possessory interest in the vehicle.

(5) Failure of either the registered or legal owner, or the registered or legal owner's agent, to request, or to attend, a scheduled hearing satisfies the poststorage hearing requirement under the subdivision.

(6) The agency employing the peace officer who caused the magistrate to issue the warrant or court order shall be responsible for the costs incurred for towing and storage if it is determined in the poststorage hearing that reasonable grounds for the storage are not established.

(j) The registered owner or the registered owner's agent is responsible for all towing and storage charges related to the impoundment, and any administrative charges authorized under Section 22850.5.

(k) A vehicle removed and seized pursuant to subdivision (g) shall be released to the legal owner of the vehicle or the legal owner's agent prior to the end of the impoundment period without the need to obtain authorization from the magistrate authorizing the seizure of the vehicle if all of the following conditions are met:

(1) The legal owner is a motor vehicle dealer, bank, credit union, acceptance corporation, or other licensed financial institution legally operating in this state or is another person, not the registered owner, holding a financial interest in the vehicle.

(2) The legal owner or the legal owner's agent pays all towing and storage fees related to the seizure of the vehicle. No lien sale processing fees shall be charged to the legal owner who redeems the vehicle prior to the 15th day of impoundment. Neither the impounding authority nor any person having possession of the vehicle shall collect from the legal owner of the type specified in paragraph (1), or the legal owner's agent, any administrative charges imposed pursuant to Section 22850.5 unless the legal owner voluntarily requested a poststorage hearing.

(3) The legal owner or the legal owner's agent presents to the impounding agency a copy of the assignment, as defined in subdivision (b) of Section 7500.1 of the Business and Professions Code, a release from the one responsible governmental agency, only if required by the agency, a government-issued photographic identification card, and any one of the following, as determined by the legal owner or the legal owner's agent: a certificate of repossession for the vehicle, a security agreement for the vehicle, or title, whether paper or electronic, showing proof of legal ownership for the vehicle. Any documents presented may be originals, photocopies, or facsimile copies, or may be transmitted electronically. The impounding agency shall not require any documents to be notarized. The impounding agency may require the agent of the legal owner to produce a photocopy or facsimile copy of its repossession agency license or registration issued pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code, or to demonstrate, to the satisfaction of the impounding agency that the agent is exempt from licensure pursuant to Section 7500.2 or 7500.3 of the Business and Professions Code. Administrative costs authorized under subdivision

(a) of Section 22850.5 shall not be charged to the legal owner of the type specified in paragraph (1), who redeems the vehicle unless the legal owner voluntarily requests a poststorage hearing. An impounding agency shall not require a legal owner or a legal owner's agent to request a poststorage hearing as a requirement for release of the vehicle to the legal owner or the legal owner's agent. The impounding agency shall not require any documents other than those specified in this paragraph. The impounding agency shall not require any documents to be notarized. The legal owner or the legal owner's agent shall be given a copy of any documents they are required to sign, except for a vehicle evidentiary hold logbook. The impounding agency may photocopy and retain the copies of any documents presented by the legal owner or legal owner's agent.

(4) A failure by a storage facility to comply with any applicable conditions set forth in this subdivision shall not affect the right of the legal owner or the legal owner's agent to retrieve the vehicle, provided all conditions required of the legal owner or legal owner's agent under this subdivision are satisfied.

(l) (1) A legal owner or the legal owner's agent that obtains release of the vehicle pursuant to subdivision (k) shall not release the vehicle to the registered owner or the person who was listed as the registered owner when the vehicle was impounded or any agents of the registered owner, unless a registered owner is a rental car agency, until the expiration of the impoundment period or until the termination of the impoundment period by court order.

(2) The legal owner or the legal owner's agent shall not relinquish the vehicle to the registered owner or the person who was listed as the registered owner when the vehicle was impounded until the registered owner or that owner's agent presents their valid driver's license or valid temporary driver's license to the legal owner or the legal owner's agent. The legal owner or the legal owner's agent shall make every reasonable effort to ensure that the license presented is valid and possession of the vehicle will not be given to the driver who was involved in the original impoundment proceeding until the expiration or termination of the impoundment period.

(3) Prior to relinquishing the vehicle, the legal owner may require the registered owner to pay all towing and storage charges related to the impoundment and the administrative charges authorized under Section 22850.5 that were incurred by the legal owner in connection with obtaining the custody of the vehicle.

(4) Any legal owner who knowingly releases or causes the release of a vehicle to a registered owner or the person in possession of the vehicle at the time of the impoundment or any agent of the registered owner in violation of this subdivision is guilty of a misdemeanor and subject to a fine in the amount of two thousand dollars (\$2,000) in addition to any other penalties established by law.

(5) The legal owner, registered owner, or person in possession of the vehicle shall not change or attempt to change the name of the legal owner or the registered owner on the records of the department until the vehicle is released from the impoundment.

(m) (1) A vehicle impounded and seized under subdivision (g) shall be released to a rental car agency prior to the end of the impoundment period if the agency is either the legal owner or registered owner of the vehicle and the agency pays all towing and storage fees related to the seizure of the vehicle.

(2) The owner of a rental vehicle that was seized under this section may continue to rent the vehicle upon recovery of the vehicle. However, the rental car agency shall

not rent another vehicle to the driver who used the vehicle that was seized until 30 days after the date that the vehicle was seized.

(3) The rental car agency may require the person to whom the vehicle was rented and who committed the violation of this section to pay all towing and storage charges related to the impoundment and any administrative charges authorized under Section 22850.5 that were incurred by the rental car agency in connection with obtaining custody of the vehicle.

(n) Notwithstanding any other provision of this section, the registered owner and not the legal owner shall remain responsible for any towing and storage charges related to the impoundment and the administrative charges authorized under Section 22850.5 and any parking fines, penalties, and administrative fees incurred by the registered owner.

(o) The impounding agency, including any storage facility acting on behalf of the impounding agency, shall comply with this section and shall not be liable to the registered owner for the improper release of the vehicle to the legal owner or the legal owner's agent, provided the release complies with the provisions of this section. The legal owner shall indemnify and hold harmless a storage facility from any claims arising out of the release of the vehicle to the legal owner or the legal owner's agent and from any damage to the vehicle after its release, including the reasonable costs associated with defending those claims. An impounding agency shall not refuse to issue a release to a legal owner or the agent of a legal owner on the grounds that it previously issued a release.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Amendment 3

On page 1, strike out lines 1 to 9, inclusive, and strike out page 2

LEGISLATIVE COUNSEL'S DIGEST

AB 410, as amended, Nazarian. Vehicles: ~~reckless driving~~; motor vehicle sideshows.

Existing law makes it a crime to engage in a motor vehicle speed contest on a highway, reckless driving on a highway, reckless driving in an offstreet parking facility, or an exhibition of speed on a highway. Existing law allows a peace officer to arrest a person and seize the motor vehicle of the person if the peace officer determines that the person was engaged in these activities. Existing law allows a vehicle seized for these purposes to be impounded for up to 30 days.

This bill would make it a misdemeanor to actively participate in, or aid or abet, a motor vehicle sideshow, defined as an event in which 2 or more persons block or impede traffic on a highway or other public place open to vehicle traffic, or access private property without the consent of the owner, operator, or agent thereof, for the purpose of performing motor vehicle stunts, motor vehicle speed contests, motor vehicle exhibitions of speed, or reckless driving, for spectators. The bill would make a second or subsequent conviction punishable as a misdemeanor or a felony and would make a violation that proximately causes bodily injury a felony. By creating a new crime, this bill would impose a state-mandated local program.

The bill would require a magistrate presented with an affidavit of a peace officer establishing reasonable cause to believe that a vehicle was an instrumentality used in the peace officer's presence in a motor vehicle sideshow to issue a warrant or order authorizing a peace officer to immediately seize and cause the removal of the vehicle. The bill would allow the vehicle to be impounded for a period not to exceed 30 days, subject to a poststorage hearing, as provided. The bill would also allow the vehicle to be released prior to the conclusion of the 30-day impoundment period without the need to obtain authorization from the magistrate under certain circumstances, as provided.

The bill would make it a misdemeanor for a legal owner who gains possession of the vehicle to release the vehicle to a registered owner prior to the 30-day impoundment period, as specified. By creating a new crime, this bill would impose a state-mandated local program.

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.

Under existing law, a person who drives a vehicle in willful or wanton disregard for the safety of persons or property is guilty of the crime of reckless driving.

This bill would make a technical, nonsubstantive change to these provisions:

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.



[AMENDED IN...]

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 410

Introduced by Assembly Member Nazarian

[Date introduced]

[Title will go here]

LEGISLATIVE COUNSEL'S DIGEST

AB 410, as introduced, Nazarian. Vehicles: ~~reckless driving.~~
motor vehicle sideshows.

[Text of Legislative Counsel's Digest will go here]

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~
yes. State-mandated local program: ~~no~~ *yes.*

THIS PAGE IS A MOCKUP OF THE MEASURE AS IT WILL BE PUBLISHED

FILED
OFFICE OF THE CITY CLERK
OAKLAND

Approved as to Form and Locality

DRAFT
City Attorney

2019 MAR 21 PM 1:38 OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

INTRODUCED BY VICE MAYOR REID

DRAFT

**A RESOLUTION IN SUPPORT OF ASSEMBLY BILL
AB 410: MOTOR VEHICLE SIDESHOWS (ASSEMBLYMEMBER ADRIN
NAZARIAN)**

WHEREAS, Assembly Bill 410 (Assembly Member Nazarian) would define a motor vehicle sideshow and outline penalties for participation, and this bill would make the first conviction of a sideshow a misdemeanor and the subsequent convictions either a misdemeanor or a felony, and Assembly Bill 410 permits a law enforcement officer to impound a participant's vehicle for up to 30 days, and;

WHEREAS, Motor vehicle sideshow" means an event in which two or more persons block or impede traffic on a highway or other public place open to vehicle traffic, or access private property without the consent of the owner, operator, or agent thereof, for the purpose of performing motor vehicle stunts, motor vehicle speed contests, motor vehicle exhibitions of speed, or reckless driving, for spectators, and;

WHEREAS, Participants in a motor vehicle sideshow include drivers or passengers of the involved motor vehicles, and any pedestrians, drivers, or passengers who barricade or prevent access to a highway or other property where the motor vehicle sideshow is being performed, and an aider or abettor to a motor vehicle sideshow includes any person who organizes, facilitates, encourages, or promotes a motor vehicle sideshow, and;

WHEREAS, Existing law makes it a crime to engage in a motor vehicle speed contest on a highway, reckless driving on a highway, reckless driving in an off-street parking facility, or an exhibition of speed on a highway, and existing law allows a peace officer to arrest a person and seize the motor vehicle of the person if the peace officer determines that the person was engaged in these activities, and existing law allows a vehicle seized for these purposes to be impounded for up to 30 days, and;

WHEREAS, This bill would make it a misdemeanor to actively participate in, or aid or abet, a motor vehicle sideshow, defined as an event in which 2 or more persons block or impede traffic on a highway or other public place open to vehicle traffic, or access private property without the consent of the owner, operator, or agent thereof, for the purpose of performing motor vehicle stunts, motor vehicle speed contests, motor vehicle exhibitions of speed, or reckless driving, for

spectators, and this bill (AB 410) would make a second or subsequent conviction punishable as a misdemeanor or a felony and would make a violation that proximately causes bodily injury a felony, and by creating a new crime, this bill would impose a state-mandated local program, and;

WHEREAS, 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, so be it:

RESOLVED: That the Oakland City Council hereby supports Assembly Bill 410 (Nazarian) and urges the California State Legislature to accept the amendments as made by Assembly Member Nazarian

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2019.

PASSED BY THE FOLLOWING VOTE:

**AYES - BAS, GALLO, GIBSON MCELHANEY, KALB, TAYLOR, THAO, REID AND
PRESIDENT KAPLAN**

NOES -
ABSENT -
ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California