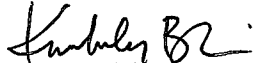


2017 MAR 29 PM 12:02

Approved as to Form and Legality

**OAKLAND CITY COUNCIL**

**RESOLUTION NO. 86695 C.M.S.**

  
City Attorney's Office

**INTRODUCED BY COUNCIL PRESIDENT REID**

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**RESOLUTION TO CO-SPONSOR SENATE BILL 699  
(GALGIANI) VEHICLES: REMOVAL AND IMPOUNDMENT**

**WHEREAS**, sideshows are gatherings, processions or assemblages where persons in vehicles engage in reckless stunts and maneuvers on city streets, sidewalks and other public places in the presence of spectators; and

**WHEREAS**, the history of sideshows in Oakland indicate that these activities place residents, other drivers and spectators in danger of injury or death; promote and cause disorderly conduct, vandalism and unruly behavior; incite violence; and create an imminent threat to public safety and order; and

**WHEREAS**, since 1988, Oakland has been the location of numerous sideshows where a pattern of violence and threats of imminent violence has been established in connection with these activities, including numerous shootings, robberies, sexual assaults and even some incidents involving fatalities; and

**WHEREAS**, sideshows and the spectators who are attracted to them cause chaos and confusion in the neighborhoods by interfering with pedestrian and vehicular traffic and by creating a situation where residents and members of the public feel threatened and intimidated; and

**WHEREAS**, sideshow activity creates serious traffic problems; interferes with the safe use of streets and sidewalks; and has resulted in gridlock conditions on arterial roadways leading to the Oakland International Airport, road closures impacting emergency vehicles and freeway off-ramps, and instances where legitimate vehicles and pedestrians are trapped in the middle of these activities; and

**WHEREAS**, sideshow activities are injurious to health and offensive to the senses; interfere with the peace and quiet of Oakland residents and with their right to enjoy their homes; interfere with the right of business owners to enjoy their property; and interfere with the comfortable enjoyment of life and property of entire communities and neighborhoods in Oakland, and therefore constitute a public nuisance; and

**WHEREAS**, over the past five years the City has spent over millions of dollars in an effort to abate sideshows and the attendant public safety and nuisance problems associated with them, and to prohibit sideshows on City highways and the gathering of spectators at these events; and

**WHEREAS**, existing law makes it a crime for any person, while operating a motor vehicle with the intent to evade, to willfully flee or otherwise attempt to evade a pursuing peace officer's motor vehicle or bicycle under certain specified conditions (California Vehicle Code section 2800.1); and

**WHEREAS**, existing law also makes it a crime to drive a vehicle upon a highway in willful or wanton disregard for the safety of persons or property (California Vehicle Code section 23103); and

**WHEREAS**, existing law makes it a crime for a person to engage in a motor vehicle speed contest or a motor vehicle exhibition of speed on a highway (California Vehicle Code section 23109); and

**WHEREAS**, existing law authorizes a magistrate to issue a warrant or order authorizing a peace officer to immediately seize and cause the removal of a vehicle if presented with a peace officer's affidavit establishing reasonable cause to believe that the vehicle was an instrumentality used in the peace officer's presence in violation of the vehicular offenses described above (California Vehicle Code section 14602.7); and

**WHEREAS**, Senate Bill 699 would amend California Vehicle Code section 14602.7 to remove the requirement that a peace officer establish reasonable cause that the violation occurred in his or her presence, and instead require a peace officer to submit an affidavit establishing reasonable cause that the violation occurred based on evidence witnessed by, delivered to, or developed by the officer within 364 days of the violation; and

**WHEREAS**, Senate Bill 699 would amend California Vehicle Code section 23109 to expand the crime of engaging in a motor vehicle speed contest or a motor vehicle exhibition of speed to apply to a parking facility; now, therefore, be it

**RESOLVED:** That the Oakland City Council hereby Co-Sponsors Senate Bill 699 (Galgiani) (Vehicles: removal and impoundment).

IN COUNCIL, OAKLAND, CALIFORNIA, APR 18 2017, 2017.

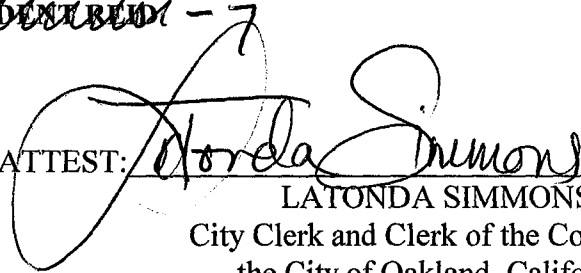
**PASSED BY THE FOLLOWING VOTE:**

**AYES - BROOKS, CAMPBELL-WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLEN, KALB, KAPLAN, and PRESIDENT RUIZ - 7**

NOES - 0  
ABSENT - 0  
ABSTENTION - 0

*Excused - 1 Reid*

ATTEST:

  
LATONDA SIMMONS  
City Clerk and Clerk of the Council of  
the City of Oakland, California

# SB 699 (Galgiani) – Vehicles: removal and impoundment (As Introduced)

## Summary

The purpose of SB 699 is to address a vehicular nuisance by using alternative penalties that limit the criminalization of the individual while providing for peace and safety in our neighborhoods.

## Background

Sideshows first emerged in Oakland in the late 1980's. For nearly 30 years, sideshows have grown in magnitude and now include participants from around the State. It started originally on city streets and now have dangerously morphed onto the freeway.

The sideshows vary in degrees in terms of frequency and magnitude. Normally, about 200 vehicles are associated with sideshow activity on a given night. Sideshows are spreading through numerous cities in our State and are a great public safety concern that endangers the lives of all citizens and law enforcement officers tasked with stopping the unlawful behaviors associated with them.

One of the most effective tools used by law enforcement to address this problem has been the towing of cars used by participants. Increased towing of vehicles has resulted in decreased Sideshow activity. These "30-day holds" have been determined to be effective in reducing the sideshows. SB 67 was signed into law in 2009 giving this authority. However due to the growth of the issue, more enforcement is needed.

## Solution

Enhance existing legislation to impound vehicles by providing video evidence as a means to secure an 'Affidavit in Support of Seizure Warrant' which would provide more target vehicles. The point of doing it this way is twofold:

1. The focus is to impound the car which is used in the nuisance activity, NOT make an arrest of the driver or increase jail sentences.
2. By using the video evidence, it makes it easier for law enforcement to address the issue by creating additional deterrents without making individual arrests. Furthermore, this does not change any of the existing protections for innocent owners, who were not driving the vehicle and should not be held responsible.

## Sponsors and Support

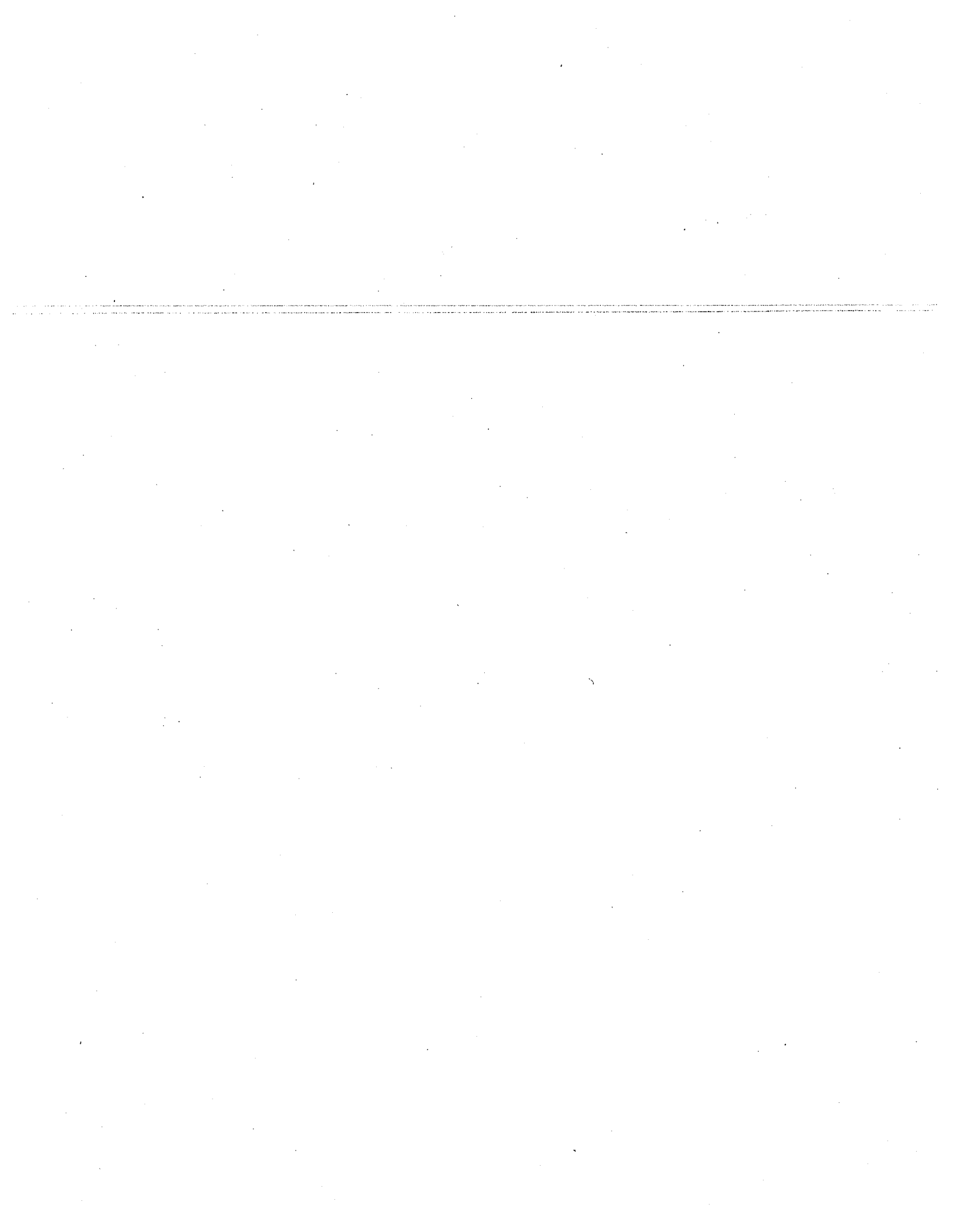
- CA Police Chief's Association (Co-Sponsor)
- City of Oakland (Co-Sponsor)

## Opposition

- None on File

## Contact

Taylor Woolfork  
Office of Senator Galgiani





*California*  
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**SB-699 Vehicles: removal and impoundment.** (2017-2018)

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Date Published: 02/17/2017 09:00 PM

CALIFORNIA LEGISLATURE— 2017-2018 REGULAR SESSION

**SENATE BILL**

**No. 699**

**Introduced by Senator Galgiani**

**February 17, 2017**

An act to amend Sections 14602.7 and 23109 of the Vehicle Code, relating to vehicles.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 699, as introduced, Galgiani. Vehicles: removal and impoundment.

Existing law makes it a crime for any person, while operating a motor vehicle with the intent to evade, to willfully flee or otherwise attempt to evade a pursuing peace officer's motor vehicle or bicycle if specified conditions exist. Existing law makes it a crime to drive a vehicle upon a highway in willful or wanton disregard for the safety of persons or property. Existing law authorizes a magistrate to issue a warrant or order authorizing a peace officer to immediately seize and cause the removal of a vehicle if presented with a peace officer's affidavit establishing reasonable cause to believe that the vehicle was an instrumentality used in the peace officer's presence in violation of an offense described above.

Existing law also makes it a crime for a person to engage in a motor vehicle speed contest or a motor vehicle exhibition of speed on a highway.

This bill would expand the crime of engaging in a motor vehicle speed contest or a motor vehicle exhibition of speed to apply to a parking facility. Because this bill would expand the scope of an existing crime, it would impose a state-mandated local program. The bill would include this crime in the list of crimes for which a peace officer may impound a vehicle pursuant to a warrant or order issued by a magistrate. The bill would change the affidavit requirement described above by removing the requirement that a peace officer establish reasonable cause that the violation occurred in his or her presence. The bill would instead require the peace officer to submit an affidavit establishing reasonable cause that the violation occurred based on evidence witnessed by, delivered to, or developed by the officer within 364 days of the violation.

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 Local Program: yes





legal owner or the legal owner's agent shall be given a copy of any documents he or she is required to sign, except for a vehicle evidentiary hold logbook. The law enforcement agency, impounding agency, or any person acting on behalf of those agencies, or any person in possession of the vehicle, 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.

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

(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 his or her 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 of the impoundment period.

(3) ~~Prior to~~ *Before* 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 shall be 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.

(g) (1) A vehicle impounded and seized under subdivision (a) shall be released to a rental car agency ~~prior to~~ *before* 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 to evade a police officer 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 evaded the peace officer 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.

(h) 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.

(i) (1) This section does not apply to vehicles abated under the Abandoned Vehicle Abatement Program pursuant to Sections 22660 to 22668, inclusive, and Section 22710, or to vehicles impounded for investigation pursuant to Section 22655, or to vehicles removed from private property pursuant to Section 22658.

(2) This section does not apply to abandoned vehicles removed pursuant to Section 22669 that are determined by the public agency to have an estimated value of three hundred dollars (\$300) or less.

(j) The law enforcement agency and the impounding agency, including any storage facility acting on behalf of the law enforcement agency or 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 any such claims. A law enforcement 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.** Section 23109 of the Vehicle Code is amended to read:

**23109.** (a) A person shall not engage in a motor vehicle speed contest on a ~~highway~~, *highway or in or upon a parking facility*. As used in this section, a motor vehicle speed contest includes a motor vehicle race against another vehicle, a clock, or other timing device. For purposes of this section, an event in which the time to cover a prescribed route of more than 20 miles is measured, but where the vehicle does not exceed the speed limits, is not a speed contest.

(b) A person shall not aid or abet in any motor vehicle speed contest on ~~any highway~~, *a highway or in or upon a parking facility*.

(c) A person shall not engage in a motor vehicle exhibition of speed on a ~~highway~~, *highway or in or upon a parking facility*, and a person shall not aid or abet in a motor vehicle exhibition of speed on ~~any highway~~, *a highway or in or upon a parking facility*.

(d) A person shall not, for the purpose of facilitating or aiding or as an incident to any motor vehicle speed contest or exhibition upon a ~~highway~~, *highway or in or upon a parking facility*, in any manner obstruct or place a barricade or obstruction or assist or participate in placing a barricade or obstruction upon ~~any highway~~, *a highway or in or upon a parking facility*.

(e) (1) A person convicted of a violation of subdivision (a) shall be punished by imprisonment in a county jail for not less than 24 hours nor more than 90 days or by a fine of not less than three hundred fifty-five dollars (\$355) nor more than one thousand dollars (\$1,000), or by both that fine and imprisonment. That person shall also be required to perform 40 hours of community service. The court may order the privilege to operate a motor vehicle suspended for 90 days to six months, as provided in paragraph (8) of subdivision (a) of Section 13352. 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 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. This subdivision does not interfere with the court's power to grant probation in a suitable case.

(2) If a person is convicted of a violation of subdivision (a) and that violation proximately causes bodily injury to a person other than the driver, the person convicted shall be punished by imprisonment in a county jail for not less than 30 days nor more than six months or by a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), or by both that fine and imprisonment.

(f) (1) If a person is convicted of a violation of subdivision (a) for an offense that occurred within five years of the date of a prior offense that resulted in a conviction of a violation of subdivision (a), that person shall be punished by imprisonment in a county jail for not less than four days nor more than six months, and by a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000).

(2) If the perpetration of the most recent offense within the five-year period described in paragraph (1) proximately causes bodily injury to a person other than the driver, a person convicted of that second violation shall be imprisoned in a county jail for not less than 30 days nor more than six months and by a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000).

(3) If the perpetration of the most recent offense within the five-year period described in paragraph (1) proximately causes serious bodily injury, as defined in paragraph (4) of subdivision (f) of Section 243 of the Penal Code, to a person other than the driver, a person convicted of that second violation shall be imprisoned in the state prison, or in a county jail for not less than 30 days nor more than one year, and by a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000).

(4) The court shall order the privilege to operate a motor vehicle of a person convicted under paragraph (1), (2), or (3) suspended for a period of six months, as provided in paragraph (9) of subdivision (a) of Section 13352. In lieu of the suspension, the person's privilege to operate a motor vehicle may be restricted for six months to necessary travel to and from that person's place of employment 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.

(5) This subdivision does not interfere with the court's power to grant probation in a suitable case.

(g) If the court grants probation to a person subject to punishment under subdivision (f), in addition to subdivision (f) and any other terms and conditions imposed by the court, which may include a fine, the court shall impose as a condition of probation that the person be confined in a county jail for not less than 48 hours nor

more than six months. The court shall order the person's privilege to operate a motor vehicle to be suspended for a period of six months, as provided in paragraph (9) of subdivision (a) of Section 13352 or restricted pursuant to subdivision (f).

(h) If a person is convicted of a violation of subdivision (a) and the vehicle used in the violation is registered to that person, the vehicle may be impounded at the registered owner's expense for not less than one day nor more than 30 days.

(i) 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.

(j) If a person's privilege to operate a motor vehicle is restricted by a court pursuant to this section, the court shall clearly mark the restriction and the dates of the restriction on that person's driver's license and promptly notify the Department of Motor Vehicles of the terms of the restriction in a manner prescribed by the department. The Department of Motor Vehicles shall place that restriction in the person's records in the Department of Motor Vehicles and enter the restriction on a license subsequently issued by the Department of Motor Vehicles to that person during the period of the restriction.

(k) The court may order that a person convicted under this section, who is to be punished by imprisonment in a county jail, be imprisoned on days other than days of regular employment of the person, as determined by the court.

(l) This section shall be known and may be cited as the Louis Friend Memorial Act.

**SEC. 3.** 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.