

Date of Hearing: April 4, 2022

ASSEMBLY COMMITTEE ON TRANSPORTATION

Laura Friedman, Chair

AB 2000 (Gabriel) – As Introduced February 14, 2022

**SUBJECT:** Motor vehicle speed contests and exhibitions of speed: offstreet parking facilities

**SUMMARY:** Expands the crimes of motor vehicle exhibition of speed and speed contest to include parking lots.

**EXISTING LAW:**

- 1) Prohibits a person from engaging in, or aiding and abetting, a motor vehicle exhibition of speed on a highway.
- 2) Defines “Highway” as “a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. Highway includes street.”
- 3) Specifies that the penalty for a motor vehicle exhibition of speed is a misdemeanor punishable by imprisonment in a county jail up to 90 days, by a fine no more than \$500, or by both.
- 4) Permits a peace officer to impound a vehicle for up to 30 days upon arresting someone for an exhibition of speed and is responsible for the cost of the impoundment, unless they are not convicted of the charge.
- 5) Prohibits a person from engaging in any motor vehicle speed contest which includes a motor vehicle race against another vehicle, a clock, or other timing device.
- 6) Permits a court to suspend a person’s driver’s license for a period of 90 days to six months if they are convicted of engaging in any motor vehicle speed contest.
- 7) Permits a court to restrict a driver convicted of engaging in any motor vehicle speed contest to be allowed to drive a vehicle to and from work and for the purposes of work.
- 8) Prohibits a person from aiding or abetting in a speed contest.
- 9) Defines speed contests as a motor vehicle race against another vehicle, a clock, or other timing device.
- 10) Sets the current penalty for conviction of street racing at imprisonment in county jail for between 24 hours and 90 days, or a fine between \$355 and \$1,000, or both. Violators are required to perform 40 hours of community service. The court can order the suspension of driving privileges between 90 days and six months. These punishments increase for subsequent offenses or in cases where bodily injury to another person has occurred.

- 11) 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.
- 12) 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. Further specifies that 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.
- 13) Authorizes a magistrate to issue a warrant or provide a peace officer with the authority to immediately seize a vehicle if the peace officer has provided a valid affidavit that the vehicle was involved in a speed contest or reckless driving in the presence of a peace officer.
- 14) Authorizes a court to suspend a person's driver's license for up to 30 days for a first offense conviction of reckless driving.

**FISCAL EFFECT:** Unknown

**COMMENTS:** In the 1980s in Oakland, California, a new tradition took hold in mall parking lots: sideshows. The original sideshows were just meant to show off cars, but they developed into larger events under Oakland's unique hyphy culture in the 1990s. These events involve customized cars and hyphy music, an Oakland slang term meaning "hyperactive" that was coined by Rapper Keak da Sneak and popularized by E-40's song, "Hyphy."

According to an interview by KQED with Sean Kennedy, a multimedia producer and local hip-hop historian in Oakland, sideshows began to change when guys with cheap cars started doing stunts to gain attention. These stunts include doing donuts (360 degree tire burnouts) and ghost riding the whip (exiting a moving vehicle and dancing beside and around it). Kennedy has noted that these sideshows have a nomadic, extra-legal element to them, as people often bring guns and sell drugs at the shows.

As sideshows grew in popularity and moved out of mall parking lots and onto streets, highways and bridges, the city of Oakland began to pass ordinances making even spectating at a sideshow a criminal offense. After the death of U'kendra K. Johnson, a 22-year old woman who was killed by a sideshow driver fleeing police in Oakland, the Legislature passed SB 1489 (Perata), Chapter 411, Statutes of 2002, also known as the U'kendra K. Johnson Memorial Act, which granted law enforcement the ability to impound a vehicle for reckless driving.

In recent years, sideshows have gained popularity outside of Oakland. The Sacramento Bee reported in January of 2019 that sideshows have been occurring on the streets in North Sacramento County nearly every weekend. Some of the larger sideshows included one in November of 2017 on Highway 50 in Sacramento that involved 500 vehicles and 1,000 people participating in a sideshow that blocked all eastbound lanes of traffic for 15 minutes. The size of these events has made it difficult for law enforcement to effectively apprehend everyone involved.

During the COVID 19 pandemic lockdowns, cities have seen an increase in street racing and sideshows, in part because there have been 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.

One of the common charges brought against individuals who participate in a sideshow is to charge them with engaging in a motor vehicle exhibition of speed on a highway. On its face, this section appears vague, but has been interpreted by the courts to include the act of burning or squealing tires allowing them to lose traction (like doing donuts), or performing a “wheelie” on a motorcycle. A motor vehicle exhibition of speed could be as minor as revving an engine or hitting the gas too quickly after running a light.

Last year the Legislature passed AB 3 (Fong), Chapter 611, Statutes of 2021, which provided the ability to suspend a person’s driver’s license if they were convicted of a motor vehicle exhibition of speed and that charge stemmed from their participation in a motor vehicle sideshow. The bill defines in statute for the first time a sideshow 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.

Prosecutors are given the discretion to charge a motor vehicle exhibition of speed as a misdemeanor or an infraction (commonly referred to as a wobblet) as a result of the different types of acts of severity that could be charged as a motor vehicle exhibition of speed. If the crime is a misdemeanor, they can serve up to 90 days in jail, and receive a fine of nearly \$500 after accounting for all of the fees attached to the \$100 base fine. If the crime is charged as an infraction, the fine is closer to \$400.

A driver will also receive two violation points on their license, and traffic violator school is not an option. An individual is considered a negligent operator if they receive 4 or more points in 12 months, 6 in 24 months, or 8 in 36 months. DMV is given the authority to suspend someone’s license if they are determined to be a negligent operator.

Unlike reckless driving charges, the crime of motor vehicle exhibitions of speed and speed contest can only be brought on a roadway, not a parking lot. This bill would authorize those two crimes to be charged if committed on a parking lot. The author’s office have pointed to stories like one in Anaheim, where a sideshow in a shopping center parking lot resulted in a vehicle drifting into the audience, clipping a 23 year old and killing them. The driver was charged with homicide.

According to the author, “Illegal sideshows devastate families, claim innocent lives in our communities, and create serious risks for our youth. You can find tragic street racing stories in the newspaper any day of the week across California—including in parking lots, which are not covered as a prohibited space for sideshows under current law. AB 2000 will give law enforcement and courts the tools and additional resources they need to stop dangerous sideshows before they start and make our communities safer for everyone.”

The California District Attorneys Association, supporting this bill, argue “Prosecutors know all too well that street racing and sideshows are not exclusive to state highways and often occur in off street parking facilities. When street racing and sideshows occur in off street parking facilities, often the risks to spectators and participants increase due to the number of pedestrians and vehicles present. Curiously, existing law, only prohibits motor vehicle speed contests and exhibitions of speed from occurring on the highway. By extending the prohibition of speed

contests and exhibitions of speed to off street parking facilities, similar to Section 23103 of the Vehicle Code [Reckless Driving], your measure will enhance public safety and save lives.”

*Committee comments:* Reckless driving charges can be brought against a driver participating in a motor vehicle side show both on a street or in a parking lot. The crime of reckless driving carries similar penalties to the crimes of speed contests and motor vehicle exhibitions of speed. While reckless driving charges can be brought against a driver in a sideshow in a parking lot, the license suspension for such an offense is 30 days, far less than the 90 day to sixth month suspension that a driver could get for participating in a sideshow on a public road.

A person who drives a vehicle upon a highway or in an off-street parking facility in a willful or wanton disregard for the safety of persons or property is guilty of reckless driving. Courts have interpreted this to include a driver’s conduct which exhibits reckless indifference to probable consequences with knowledge of facts and circumstances likely to result in injury.

While reckless driving charges can only be brought against a driver in a sideshow, speed contest and motor vehicle exhibition of speed charges can be brought against anyone who aides and abets in the crime. These charges can be brought for sideshows or speed contests that occur on a road, but not in a parking lot. This could include spectators of the sideshows or vehicles barricading or obstructing the parking lot. It also has been used successfully to bring charges against passengers in the car if you could prove they were encouraging the driver.

As a result, this bill would expand the ability for law enforcement to bring charges against participants in a side show in a parking lot that are not driving the vehicle. These penalties would be the same as if they were driving the car themselves, bringing parity to charges that can already be brought for similar behavior if it were to occur on a roadway.

*Related Legislation:*

SB 1472 (Stern), creates a new crime of vehicular manslaughter while driving in a reckless manner and vehicular manslaughter while driving and speeding. That bill is pending before Senate Public Safety Committee.

*Previous legislation:*

SB 67 (Perata), Chapter 727, Statutes of 2007 reenacted provisions that were allowed to sunset that provide for vehicle impoundments when a person is arrested for reckless driving, exhibition of speed, or a speed contest.

SB 1489 (Perata), Chapter 411, Statutes of 2002 gave law enforcement the authority to seize and impound a vehicle for no more than 30 days when a person was arrested for reckless driving, exhibition of speed, or a speed contest. This bill sunsets on January 1, 2007.

AB 410 (Nazarian), of 2019 would have made it a misdemeanor or a felony to participate in, or aid and abet, a motor vehicle sideshow. That bill died in Assembly Public Safety Committee.

AB 1407 (Friedman), of 2019, AB 1393 (Friedman) of 2017 and SB 510 (Hall) of 2015 would have required a vehicle that is determined to have been involved in a speed contest or engaged in reckless driving to be impounded for 30 days, as specified. These bills were vetoed by the Governor.

SB 699 (Galgiani), of 2017 would have made it a crime to engage in, or aid or abet, a speed contest or an exhibition of speed in a parking facility. That bill passed out of the Senate and was later amended into a different measure and died in Assembly Public Safety Committee.

**REGISTERED SUPPORT / OPPOSITION:****Support**

AAA Northern California, Nevada & Utah  
Automobile Club of Southern California  
California Association of Highway Patrolmen  
California District Attorneys Association  
California State Sheriffs' Association  
City of Beverly Hills  
Los Angeles Sheriffs' Department  
Peace Officers Research Association of California (PORAC)  
Sacramento; County of  
We Save Lives.org

**Oppose**

ACLU California Action

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