

Date of Hearing: March 22, 2021

ASSEMBLY COMMITTEE ON TRANSPORTATION  
Laura Friedman, Chair  
AB 3 (Fong) – As Introduced December 7, 2020

**SUBJECT:** Vehicles: exhibition of speed

**SUMMARY:** Permits, but does not require, 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, or aiding and abetting, a motor vehicle exhibition of speed. Specifically, **this bill:**

- 1) 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, or aiding and abetting, a motor vehicle exhibition of speed.
- 2) Permits a court to restrict a driver convicted of engaging in, or aiding and abetting, a motor vehicle exhibition of speed to be allowed to drive a vehicle to and from work and for the purposes of work.

**EXISTING LAW:**

- 1) Prohibits a person from engaging in, or aiding and abetting, a motor vehicle exhibition of speed on a highway.
- 2) 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.
- 3) Permits a peace officer to impound a vehicle 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.
- 4) 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.
- 5) 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.
- 6) 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.
- 7) Prohibits a person from aiding or abetting in a speed contest.

**FISCAL EFFECT:** Unknown

**COMMENTS:** In the 1980s in Oakland, California, a new tradition began to take 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.

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.

The Judicial Council's Criminal Jury Instruction defines the crime this way: "A person engages in an exhibition of speed when he or she 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."

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.

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 2 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.

Under this bill, the courts may suspend an individual's driver's license for 90 days to six months. This punishment is in line with the punishment for participating in a motor vehicle speed contest, which involves at least two drivers racing each other.

According to the author, "AB 3 aims to curb illegal street racing by stopping it at its source: motor vehicle exhibition of speed. Illegal street races have grown in rapid frequency throughout the state and have led to serious injuries and tragic deaths of many young individuals. AB 3 sends a strong message that the state will not be lenient toward this dangerous activity that too often results in horrible consequences to our youth and the families they represent."

While the research on driver's license suspensions is aging, research has shown that as many as 75% of drivers continue to drive during their period of license suspension or revocation (Hagen, MicConnell & Williams, 1980). Drivers with a suspended license in California are 3.7 times more likely to be involved in a fatal crash than the average driver (DeYoung, Pech and Helander (1997). However, it has also been shown that those with a suspended license also drive less often and more carefully during their period of license disqualification (Hagen et al., 1980; Ross and Gonzalez, 1988).

In an attempt to discourage drivers from driving with a suspended license, SB 1758 (Kopp), Chapter 1221, Statutes of 1994 gave law enforcement 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 Driver's 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%. Those drivers who had their vehicles impounded also saw an 18% drop in total traffic convictions, and a 22.3% drop in traffic violations for repeat offenders.

The Los Angeles Sheriff's Department, writing in support of this bill, argues "Like many jurisdictions in California, Los Angeles County has seen a sharp rise in dangerous driving and illegal street racing. Illegal street racing is not only dangerous, but it often has fatal consequences for participants, pedestrians, commuters, and law enforcement alike. AB 3 seeks to provide a remedy for this dangerous and illegal behavior."

*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**

American Automobile Association of Northern California, Nevada & Utah  
Automobile Club of Southern California  
California Association of Highway Patrolmen  
Conor Lynch Foundation  
Los Angeles County Sheriff's Department  
Peace Officers Research Association of California (PORAC)  
Social Families for Safe Streets  
Street Racing Kills  
Streets are For Everyone (SAFE)

**Opposition**

None on file

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