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SB-1472 Vehicular manslaughter: speeding and reckless driving. (2021-2022)

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Senate Bill No. 1472

CHAPTER 626

An act to amend Section 192 of the Penal Code, relating to crimes.

[Approved by Governor September 27, 2022. Filed with Secretary of State September 27, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1472, Stern. Vehicular manslaughter: speeding and reckless driving.

Existing law prohibits a person from driving a vehicle upon a highway at a speed greater than 100 miles per hour, and provides that upon a subsequent conviction of that offense within a certain number of years, the person shall be punished by a fine and the Department of Motor Vehicles shall suspend their privilege to operate a vehicle, as specified. Under existing law, a person who drives a vehicle upon a highway or in an offstreet parking facility in willful or wanton disregard for the safety of persons or property is guilty of reckless driving, which is punishable by imprisonment in the county jail or by the payment of a fine, or both imprisonment and a fine, as specified.

Existing law defines the crime of vehicular manslaughter as the unlawful killing of a human being without malice while driving a vehicle under specified circumstances, including in the commission of an unlawful act, not amounting to felony, with or without gross negligence, and provides that vehicular manslaughter is punishable as a misdemeanor or a felony.

This bill would specify a list of circumstances that may, based on the totality of the circumstances, constitute gross negligence for manslaughter, including, among other circumstances, when a person has participated in a sideshow or has sped over 100 miles per hour. By expanding the definition of a crime, the 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.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. This act shall be known, and may be cited, as Ryan's Law.

SEC. 2. The Legislature finds and declares all of the following:

(a) Ensuring our local streets and highways are protected from reckless drivers and excessive speeding is of the highest priority.

(b) Last year, the United States Department of Transportation's National Highway Traffic Safety Administration issued findings that showed while Americans drove less in 2020 due to the pandemic, an estimated 39,000 people died in motor vehicle traffic crashes, which is the largest number of fatalities since 2007, and represents an increase of about 7.2 percent compared to the 36,096 fatalities reported in 2019.

(c) In 2020, the State of California reported around 3,723 motor vehicle deaths, a slight increase from the year before.

(d) In 2021, traffic collisions killed 294 individuals in the City of Los Angeles, a 24-percent increase from 2020.

(e) In 2021, traffic accidents in the City of Los Angeles involving serious injury to pedestrians was up by 45 percent and serious injury to bicyclists was up by 34 percent from 2020.

(f) Exacerbating these fatalities and serious injuries is the prevalence of street racing and sideshows. According to the Department of the California Highway Patrol, in 2021, they responded to almost 6,000 of those events, issuing 2,500 citations statewide, making 87 arrests, and recovering 17 firearms.

(g) Recent increases in local street and highway fatalities, serious injuries, and the dangers of street racing is resulting in an epidemic of reckless driving and disregard for public safety.

(h) Law enforcement at the state and local level must be provided increased funding, additional resources, and effective statutory changes to maximize their efforts in combating reckless speeding and street racing.

SEC. 3. Section 192 of the Penal Code is amended to read:

192. Manslaughter is the unlawful killing of a human being without malice. It is of three kinds:

(a) Voluntary—upon a sudden quarrel or heat of passion.

(b) Involuntary—in the commission of an unlawful act, not amounting to a felony; or in the commission of a lawful act which might produce death, in an unlawful manner, or without due caution and circumspection. This subdivision shall not apply to acts committed in the driving of a vehicle.

(c) Vehicular—

(1) Except as provided in subdivision (a) of Section 191.5, driving a vehicle in the commission of an unlawful act, not amounting to a felony, and with gross negligence; or driving a vehicle in the commission of a lawful act which might produce death, in an unlawful manner, and with gross negligence.

(2) Driving a vehicle in the commission of an unlawful act, not amounting to a felony, but without gross negligence; or driving a vehicle in the commission of a lawful act which might produce death, in an unlawful manner, but without gross negligence.

(3) Driving a vehicle in connection with a violation of paragraph (3) of subdivision (a) of Section 550, where the vehicular collision or vehicular accident was knowingly caused for financial gain and proximately resulted in the death of any person. This paragraph does not prevent prosecution of a defendant for the crime of murder.

(d) This section shall not be construed as making any homicide in the driving of a vehicle punishable that is not a proximate result of the commission of an unlawful act, not amounting to a felony, or of the commission of a lawful act which might produce death, in an unlawful manner.

(e) (1) "Gross negligence," as used in this section, does not prohibit or preclude a charge of murder under Section 188 upon facts exhibiting wantonness and a conscious disregard for life to support a finding of implied malice, or upon facts showing malice, consistent with the holding of the California Supreme Court in *People v. Watson* (1981) 30 Cal.3d 290.

(2) "Gross negligence," as used in this section, may include, based on the totality of the circumstances, any of the following:

(A) Participating in a sideshow pursuant to subparagraph (A) of subparagraph (2) of subdivision (i) of Section 23109 of the Vehicle Code.

(B) An exhibition of speed pursuant to subdivision (a) of Section 23109 of the Vehicle Code.

(C) Speeding over 100 miles per hour.

(f) (1) For purposes of determining sudden quarrel or heat of passion pursuant to subdivision (a), the provocation was not objectively reasonable if it resulted from the discovery of, knowledge about, or potential disclosure of the victim's actual or perceived gender, gender identity, gender expression, or sexual orientation, including under circumstances in which the victim made an unwanted nonforcible romantic or sexual advance towards the defendant, or if the defendant and victim dated or had a

romantic or sexual relationship. Nothing in this section shall preclude the jury from considering all relevant facts to determine whether the defendant was in fact provoked for purposes of establishing subjective provocation.

(2) For purposes of this subdivision, "gender" includes a person's gender identity and gender-related appearance and behavior regardless of whether that appearance or behavior is associated with the person's gender as determined at birth.

SEC. 4. 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.