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SB-905 Crimes: theft from a vehicle. (2023-2024)

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Date Published: 08/16/2024 09:00 PM

Senate Bill No. 905

CHAPTER 170

An act to add Sections 465 and 496.5 to the Penal Code, relating to crimes.

[Approved by Governor August 16, 2024. Filed with Secretary of State August 16, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

SB 905, Wiener. Crimes: theft from a vehicle.

Existing law defines the crime of burglary to include entering a vehicle when the doors are locked with the intent to commit grand or petit larceny or a felony. Existing law makes the burglary of a vehicle punishable as a misdemeanor or a felony.

This bill would make forcibly entering a vehicle, as defined, with the intent to commit a theft or a felony therein a crime punishable by imprisonment in a county jail for a period not to exceed one year or imprisonment in a county jail for 16 months, or 2 or 3 years. By creating a new crime, this bill would impose a state-mandated local program.

Existing law prohibits the taking of the personal property of another, as specified, prohibits removing any part of a vehicle without the consent of the owner, and prohibits the possession or receipt of stolen property, as specified. A violation of these prohibitions is punishable as either a misdemeanor or a felony.

This bill would make it a crime for a person to unlawfully possess property that was acquired through one or more acts of theft from a vehicle, unlawful entry of a vehicle, burglary of a locked vehicle, or vehicle tampering, if the property is not possessed for personal use and the person has the intent to sell or exchange the property, or the intent to act with another person to sell or exchange the property, and the value of the possessed property exceeds \$950. The bill would, for the purpose of determining the value, allow the aggregation of the value of other illegally obtained property possessed by the person within the past 2 years. The bill would make this crime punishable as a misdemeanor or a felony. 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.

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

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

SECTION 1. Section 465 is added to the Penal Code, to read:

465. (a) A person who forcibly enters a vehicle, as defined in Section 670 of the Vehicle Code, with the intent to commit a theft or any felony therein is guilty of unlawful entry of a vehicle.

(b) Unlawful entry of a vehicle is punishable by imprisonment in a county jail for a period not to exceed one year or imprisonment pursuant to subdivision (h) of Section 1170.

(c) As used in this section, forcible entry of a vehicle means the entry of a vehicle accomplished through any of the following means: the use of a tool or device that manipulates the locking mechanism, including, without limitation, a slim jim or other lockout tool, a shaved key, jiggle key, or lock pick, or an electronic device such as a signal extender, or force that damages the exterior of the vehicle, including, but not limited to, breaking a window, cutting a convertible top, punching a lock, or prying open a door.

(d) A person may not be convicted both pursuant to this section and pursuant to Section 459.

SEC. 2. Section 496.5 is added to the Penal Code, to read:

496.5. (a) A person who unlawfully possesses property that was acquired through one or more acts of theft from a vehicle, unlawful entry of a vehicle, burglary of a locked vehicle, or vehicle tampering as defined in Section 10852 of the Vehicle Code, whether or not the person committed the act of theft, burglary, or vehicle tampering, is guilty of automotive property theft for resale when both of the following apply:

(1) The property is not possessed for personal use and the person has the intent to sell or exchange the property for value, or the intent to act in concert with one or more persons to sell or exchange the property for value.

(2) The value of the possessed property exceeds nine hundred fifty dollars (\$950). For purposes of determining the value of the property, the property described in paragraph (1) can be considered in the aggregate with any of the following:

(A) Any other such property possessed by the person with such intent within the last two years.

(B) Any property possessed by another person acting in concert with the first person to sell or exchange the property for value, when that property was acquired through one or more acts of theft from a vehicle, unlawful entry of a vehicle, burglary of a locked vehicle, or vehicle tampering as defined in Section 10852 of the Vehicle Code, regardless of the identity of the person committing the acts of theft, burglary, or vehicle tampering.

(b) For the purpose of determining, in any proceeding, whether the defendant had the intent to sell or exchange the property for value, the trier of fact may consider any competent evidence, including, but not limited to, the following:

(1) Whether the defendant has in the past two years sold or exchanged for value any property acquired through theft from a vehicle, burglary of a locked vehicle, or vehicle tampering as defined in Section 10852 of the Vehicle Code, or through any related offenses, including any conduct that occurred in other jurisdictions, if relevant to demonstrate a fact other than the defendant's disposition to commit the act, as provided by subdivision (b) of Section 1101 of the Evidence Code.

(2) Whether the property involved in the offense is of a type or quantity that would not normally be purchased for personal use or consumption, including use or consumption by one's immediate family.

(c) A violation of subdivision (a) is punishable by imprisonment in the county jail for up to one year or pursuant to subdivision (h) of Section 1170.

(d) This section does not preclude or prohibit prosecution under any other law.

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.