

ASSEMBLY BILL

No. 678

Introduced by Assembly Members Gaines, Benoit, and Spitzer

February 21, 2007

An act to amend Section 192.5 of the Penal Code, and to amend Section 20001 of the Vehicle Code, relating to crime.

LEGISLATIVE COUNSEL'S DIGEST

AB 678, as introduced, Gaines. Crimes: fleeing the scene of an accident.

Existing law requires that a person who flees the scene of the crime after committing gross vehicular manslaughter or vehicular manslaughter, as prescribed, upon conviction, to be punished by an additional term of imprisonment of 5 years in the state prison.

This bill would correct cross-references and make conforming technical changes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 192.5 of the Penal Code is amended to
2 read:
3 192.5. Vehicular manslaughter pursuant to subdivision (b) of
4 Section 191.5 and subdivision (c) of Section 192 is the unlawful
5 killing of a human being without malice aforethought, and includes:
6 (a) Operating a vessel in violation of subdivision (b), (c), (d),
7 (e), or (f) of Section 655 of the Harbors and Navigation Code, and
8 in the commission of an unlawful act, not amounting to felony,

1 and with gross negligence; or operating a vessel in violation of
 2 subdivision (b), (c), (d), (e), or (f) of Section 655 of the Harbors
 3 and Navigation Code, and in the commission of a lawful act that
 4 might produce death, in an unlawful manner, and with gross
 5 negligence.

6 (b) Operating a vessel in violation of subdivision (b), (c), (d),
 7 (e), or (f) of Section 655 of the Harbors and Navigation Code, and
 8 in the commission of an unlawful act, not amounting to felony,
 9 but without gross negligence; or operating a vessel in violation of
 10 subdivision (b), (c), (d), (e), or (f) of Section 655 of the Harbors
 11 and Navigation Code, and in the commission of a lawful act that
 12 might produce death, in an unlawful manner, but without gross
 13 negligence.

14 (c) Operating a vessel in the commission of an unlawful act,
 15 not amounting to a felony, and with gross negligence; or operating
 16 a vessel in the commission of a lawful act that might produce death,
 17 in an unlawful manner, and with gross negligence.

18 (d) Operating a vessel in the commission of an unlawful act,
 19 not amounting to a felony, but without gross negligence; or
 20 operating a vessel in the commission of a lawful act that might
 21 produce death, in an unlawful manner, but without gross
 22 negligence.

23 (e) *A person who flees the scene of the crime after committing*
 24 *a violation of subdivision (a), (b), or (c), upon conviction, in*
 25 *addition and consecutive to the punishment prescribed, shall be*
 26 *punished by an additional term of imprisonment of five years in*
 27 *the state prison. This additional term shall not be imposed unless*
 28 *the allegation is charged in the accusatory pleading and admitted*
 29 *by the defendant or found to be true by the trier of fact. The court*
 30 *shall not strike a finding that brings a person within the provisions*
 31 *of this subdivision or an allegation made pursuant to this*
 32 *subdivision.*

33 SEC. 2. Section 20001 of the Vehicle Code is amended to read:

34 20001. (a) The driver of ~~any~~ a vehicle involved in an accident
 35 resulting in injury to ~~any~~ a person, other than himself or herself,
 36 or in the death of ~~any~~ a person shall immediately stop the vehicle
 37 at the scene of the accident and shall fulfill the requirements of
 38 Sections 20003 and 20004.

39 (b) (1) Except as provided in paragraph (2), ~~any~~ a person who
 40 violates subdivision (a) shall be punished by imprisonment in the

1 state prison, or in a county jail for not more than one year, or by
2 a fine of not less than one thousand dollars (\$1,000) nor more than
3 ten thousand dollars (\$10,000), or by both that imprisonment and
4 fine.

5 (2) If the accident described in subdivision (a) results in death
6 or permanent, serious injury, ~~any~~ a person who violates subdivision
7 (a) shall be punished by imprisonment in the state prison for two,
8 three, or four years, or in a county jail for not less than 90 days
9 nor more than one year, or by a fine of not less than one thousand
10 dollars (\$1,000) nor more than ten thousand dollars (\$10,000), or
11 by both that imprisonment and fine. However, the court, in the
12 interests of justice and for reasons stated in the record, may reduce
13 or eliminate the minimum imprisonment required by this paragraph.

14 (3) In imposing the minimum fine required by this subdivision,
15 the court shall take into consideration the defendant's ability to
16 pay the fine and, in the interests of justice and for reasons stated
17 in the record, may reduce the amount of that minimum fine to less
18 than the amount otherwise required by this subdivision.

19 (c) A person who flees the scene of the crime after committing
20 a violation of Section 191.5 of, *or* paragraph (1) ~~or (3)~~ of
21 subdivision (c) of Section 192 of, ~~or subdivision (a) or (c) of~~
22 ~~Section 192.5 of~~, the Penal Code, upon conviction of any of those
23 sections, in addition and consecutive to the punishment prescribed,
24 shall be punished by an additional term of imprisonment of five
25 years in the state prison. This additional term shall not be imposed
26 unless the allegation is charged in the accusatory pleading and
27 admitted by the defendant or found to be true by the trier of fact.
28 The court shall not strike a finding that brings a person within the
29 provisions of this subdivision or an allegation made pursuant to
30 this subdivision.

31 (d) As used in this section, "permanent, serious injury" means
32 the loss or permanent impairment of function of any bodily member
33 or organ.