

SENATE BILL No. 543

June 14, 2001, Introduced by Senator BENNETT and referred to the Committee on Economic Development, International Trade and Regulatory Affairs.

A bill to amend 1915 PA 312, entitled
"Garage keeper's lien act,"
by amending sections 2, 3, 4, 5, and 6 (MCL 570.302, 570.303,
570.304, 570.305, and 570.306), sections 2 and 3 as amended and
sections 4, 5, and 6 as added by 1998 PA 236, and by adding sec-
tion 10.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 2. As used in this act:

(A) "BUREAU" MEANS THE BUREAU OF AUTOMOTIVE REGULATION.

(B) ~~-(a)-~~ "Department" means the department of state.

(C) ~~-(b)-~~ "Garage keeper" means a person or the person's

~~heirs~~ HEIR, personal representative, ~~successors, and~~

~~assignees,~~ SUCCESSOR, ASSIGNEE, OR AUTHORIZED AGENT who for hire

or reward, publicly ~~offer~~ OFFERS to ~~store,~~ maintain ~~, keep,~~

or repair a vehicle or an accessory used in the operation of a

1 vehicle or to furnish accessories and supplies for a vehicle or
2 an accessory used in the operation of a vehicle.

3 (D) ~~-(c)-~~ "Last known address" means the address provided by
4 the owner in the most recent contract for storage, labor, materi-
5 al, or supplies entered into between the garage keeper and the
6 owner, or in a subsequent written notice of change of address to
7 the garage keeper or as shown by the records of the department.

8 (E) "LIENHOLDER" MEANS ANY PERSON OR LEGAL ENTITY THAT IS
9 NOTED ON THE MOTOR VEHICLE CERTIFICATE OF TITLE AS A LIENHOLDER,
10 OR, IF THE MOTOR VEHICLE CERTIFICATE OF TITLE CONTAINS THE TERM
11 LESSEE, THE PERSON OR LEGAL ENTITY THAT IS NOTED ON THE MOTOR
12 VEHICLE CERTIFICATE OF TITLE AS THE LESSOR OR AS SHOWN BY THE
13 RECORDS OF THE DEPARTMENT.

14 (F) ~~-(d)-~~ "Market value" means the TRADE-IN value as deter-
15 mined by the issue of the national auto dealers association offi-
16 cial used car guide in effect at the time the garage keeper per-
17 forms the first labor or first furnishes supplies for which the
18 garage keeper claims a lien under this act.

19 (G) ~~-(e)-~~ "Owner" means ~~the person in whose name a vehicle~~
20 ~~is registered or titled~~ THAT TERM AS DEFINED IN SECTION 37 OF
21 THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.37, OR AS SHOWN
22 BY THE RECORDS OF THE DEPARTMENT.

23 (H) ~~-(f)-~~ "Vehicle" means that term as defined in section 79
24 of the Michigan vehicle code, 1949 PA 300, MCL 257.79.

25 Sec. 3. (1) ~~-A-~~ EXCEPT AS OTHERWISE PROVIDED IN THIS ACT, A
26 garage keeper who, in pursuance of a contract that is expressed,
27 implied, written, or unwritten, furnishes labor, material,

1 STORAGE, DIAGNOSIS, AN ESTIMATE OF REPAIRS, or supplies FOR A
2 VEHICLE, shall have a lien upon the vehicle ~~stored, maintained,~~
3 ~~supplied, or repaired by him or her~~ for the charges due for the
4 storage, maintenance, keeping, DIAGNOSIS, ESTIMATE OF REPAIRS,
5 and repair of the vehicle and for gasoline, electric current, or
6 other accessories and supplies furnished, expenses bestowed, or
7 labor performed on the vehicle at the request or with the consent
8 of the owner of the vehicle. ~~A~~ IF A VEHICLE REMAINS IN THE
9 POSSESSION OF A GARAGE KEEPER AFTER THE COMPLETION OF REPAIRS OR
10 AFTER A DIAGNOSIS AND SUBSEQUENT STORAGE OF THE VEHICLE WHEN
11 REPAIRS ARE NOT AUTHORIZED, A garage keeper's lien attaches TO
12 THE VEHICLE in the manner and amount provided in this section.

13 (2) THE LIEN ATTACHES TO THE VEHICLE ON THE DAY THE GARAGE
14 KEEPER PERFORMS THE LAST LABOR OR FURNISHES THE LAST SUPPLIES FOR
15 WHICH A LIEN IS CLAIMED AGAINST THE VEHICLE. The garage keeper
16 may ~~detain~~ KEEP a vehicle for not more than ~~120~~ 225 days
17 after performing the last labor or furnishing the last supplies
18 for which a lien is claimed against the vehicle.

19 (3) The portion of a lien that is for labor and material
20 furnished in making repairs upon a vehicle has priority over all
21 other liens upon the vehicle. The lien has no effect against the
22 holder of a security interest, conditional sales agreement or
23 other lien that attached before the attachment of the garage
24 keeper's lien upon the payment by a prior lienholder to the
25 garage keeper of the amount of the lien calculated under
26 subsection (4) AND SECTION 4.

1 (4) Except as provided in section 4, the maximum amount of a
2 lien that a prior lienholder shall pay a garage keeper under this
3 section is calculated as follows:

4 (a) If a repaired vehicle has a market value of more than
5 ~~\$3,000.00~~ \$5,000.00, then the amount of the lien shall be not
6 more than 20% of the market value of the repaired vehicle or
7 \$5,000.00, whichever is less.

8 (b) If a repaired vehicle has a market value of ~~\$3,000.00~~
9 \$5,000.00 or less, then the amount of the lien shall be ~~\$600.00~~
10 NOT MORE THAN \$1,000.00.

11 ~~(5) The amount of a payment made under this section shall~~
12 ~~be added to the amount of the prior lienholder's lien.~~

13 Sec. 4. (1) A garage keeper's lien under section 3 shall
14 not include an amount for labor and materials for any of the fol-
15 lowing if the materials used were custom materials that are not
16 normally available from the manufacturer or, in the case of a
17 vehicle manufactured in a foreign country, a distributor of the
18 vehicle or that are not normally installed on the vehicle by the
19 original manufacturer:

20 (a) The repair or replacement of all or a part of the
21 interior or exterior of the repaired vehicle.

22 (b) The installation, repair, or replacement of electronic
23 and related parts.

24 (c) The installation, repair, or replacement of any other
25 materials or parts that are not essential to the normal operation
26 of the repaired vehicle.

1 (2) ~~A garage keeper has a lien in a reasonable amount~~
2 UNLESS OTHERWISE AGREED TO IN WRITING, A GARAGE KEEPER'S LIEN
3 UNDER SECTION 3 MAY INCLUDE AN AMOUNT OF NOT MORE THAN \$10.00 PER
4 DAY for the storage of the vehicle, for the storage of an acces-
5 sory used in the operation of a vehicle, or for the storage of
6 accessories and supplies furnished for the vehicle or an acces-
7 sory used in the operation of the vehicle. Unless otherwise
8 agreed to in writing, the charge shall be for not more than
9 120 days' storage. HOWEVER, A LIENHOLDER WHO PAYS A GARAGE
10 KEEPER'S LIEN UNDER SECTION 5(8) IS NOT LIABLE FOR AND IS NOT
11 REQUIRED TO PAY FOR ANY STORAGE CHARGES THAT ACCRUED PRIOR TO
12 45 DAYS AFTER THE GARAGE KEEPER'S NOTIFICATION TO THE LIENHOLDER
13 UNDER SECTION 5. Charges described in this subsection may be in
14 addition to the maximum allowance under section 3(4).

15 Sec. 5. (1) A lien under section 3 shall be enforced only
16 as provided in this section.

17 (2) If charges described in section 3 are not paid, the
18 garage keeper may sell the vehicle at a public sale described in
19 this section.

20 (3) TO ENFORCE A LIEN UNDER SECTION 3, A GARAGE KEEPER OR
21 AUTHORIZED AGENT SHALL, NOT MORE THAN 105 DAYS AFTER THE DATE THE
22 LIEN ATTACHED AS PROVIDED IN SECTION 3, APPLY TO THE DEPARTMENT,
23 IN A FORMAT PRESCRIBED BY THE DEPARTMENT, FOR A CERTIFICATE OF
24 FORECLOSURE OF GARAGE KEEPER'S LIEN AND BILL OF SALE ACCOMPANIED
25 BY A FEE OF \$10.00 PAID TO THE DEPARTMENT. THE DEPARTMENT SHALL,
26 NOT MORE THAN 30 DAYS AFTER THE POSTMARK DATE OF A COMPLETE
27 APPLICATION RECEIVED BY MAIL OR THE DATE A COMPLETE APPLICATION

1 IS HAND-DELIVERED BY THE GARAGE KEEPER OR AUTHORIZED AGENT TO THE
2 DEPARTMENT, PROVIDE TO THE GARAGE KEEPER OR AUTHORIZED AGENT THE
3 NAMES AND ADDRESSES OF ALL OWNERS OF RECORD AND OF ALL LIENHOLD-
4 ERS OF THE VEHICLE AS SHOWN BY THE RECORDS OF THE DEPARTMENT.

5 (4) ~~-(3)-The~~ AFTER COMPLYING WITH THE REQUIREMENTS OF
6 SUBSECTION (3), THE garage keeper shall notify the owner OR
7 OWNERS, ALL LIENHOLDERS, AND THE DEPARTMENT OF STATE, BUREAU OF
8 AUTOMOTIVE REGULATION, LANSING, MICHIGAN, of the proposed sale of
9 the vehicle in order to satisfy the lien of the garage keeper by
10 a notice sent by certified mail RETURN RECEIPT REQUESTED to the
11 last known address of the owner OR OWNERS, THE LIENHOLDERS AND
12 THE BUREAU. THE GARAGE KEEPER SHALL SEND ALL THE NOTICES
13 REQUIRED BY THIS SUBSECTION NOT MORE THAN 30 DAYS AFTER THE DATE
14 PLACED ON THE CERTIFICATE OF FORECLOSURE OF GARAGE KEEPER'S LIEN
15 AND BILL OF SALE BY THE DEPARTMENT. The notice shall include
16 ~~both~~ ALL of the following:

17 (a) An itemized statement of the garage keeper's lien show-
18 ing the amount due at the time of the notice and the date on
19 which the amount became due.

20 (b) A demand for payment ~~not more than 45 days after deliv-~~
21 ~~ery of the notice~~ IN THE AMOUNT NECESSARY TO SATISFY THE LIEN
22 AUTHORIZED UNDER SECTION 3(1). THE DEMAND FOR PAYMENT MUST GIVE
23 THE OWNER OR OWNERS NOT LESS THAN 30 CALENDAR DAYS AFTER THE
24 POSTMARK DATE OF THE NOTICE TO SATISFY THE GARAGE KEEPER'S LIEN.

25 (C) A STATEMENT THAT ALL LIENHOLDERS ARE BEING NOTIFIED OF
26 THE DELINQUENCY, THAT A LIENHOLDER HAS THE RIGHT TO SATISFY THE
27 GARAGE KEEPER'S LIEN PLUS ANY STORAGE CHARGES PROVIDED FOR UNDER

1 SECTION 4 AND OBTAIN POSSESSION OF THE VEHICLE AS PROVIDED IN
2 SECTION 5(8), AND THAT A LIENHOLDER IS REQUIRED TO NOTIFY THE
3 GARAGE KEEPER BEFORE THE PROCEEDS ARE DISTRIBUTED UNDER SECTION 6
4 IF THE LIENHOLDER DESIRES TO CLAIM ANY OF THE PROCEEDS FROM THE
5 SALE OF THE VEHICLE UNDER SECTION 6(1)(A).

6 (D) A STATEMENT OF DAILY STORAGE FEES, IF ANY.

7 (E) A STATEMENT OF THE DATE, TIME, MANNER, AND PLACE THAT
8 THE VEHICLE WILL BE SOLD.

9 ~~-(4) On the same day that the notice described in~~
10 ~~subsection (3) is sent to the owner, the garage keeper shall send~~
11 ~~an exact duplicate of that notice by first-class mail, addressed~~
12 ~~to both of the following:~~

13 ~~(a) The department of state, bureau of automotive regula-~~
14 ~~tion, Lansing, Michigan.~~

15 ~~(b) Each prior lienholder listed on the title of the vehicle~~
16 ~~at the address indicated on the title for that prior lienholder,~~
17 ~~if any.~~

18 (5) ~~The~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION,
19 THE sale shall be held not less than ~~20~~ 75 CALENDAR days ~~and~~
20 ~~not more than 60 days after the expiration of the 45-day period~~
21 ~~described in subsection (3)~~ AFTER THE DATE PLACED ON THE CERTIF-
22 ICATE OF FORECLOSURE OF THE GARAGE KEEPER'S LIEN AND BILL OF SALE
23 BY THE DEPARTMENT. THE BUREAU MAY OBJECT TO A SALE ONLY IF IT
24 HAS REASON TO BELIEVE THAT THE GARAGE KEEPER HAS FAILED TO SUB-
25 STANTIALY COMPLY WITH THIS ACT, THE RULES PROMULGATED UNDER THIS
26 ACT, THE MOTOR VEHICLE SERVICE AND REPAIR ACT, 1974 PA 300, MCL
27 257.1301 TO 257.1340, OR THE RULES PROMULGATED UNDER THE MOTOR

1 VEHICLE SERVICE AND REPAIR ACT, 1974 PA 300, MCL 257.1301 TO
2 257.1340, IN THE REPAIR TRANSACTION INVOLVING THE VEHICLE THAT IS
3 THE SUBJECT OF THE LIEN. IF THE BUREAU OBJECTS TO THE SALE
4 WITHIN THE 75-DAY PERIOD, ALL OF THE FOLLOWING CONDITIONS SHALL
5 APPLY:

6 (A) THE BUREAU SHALL COMPLETE AN INVESTIGATION OF ITS OBJEC-
7 TION WITHIN 150 CALENDAR DAYS AFTER THE DATE PLACED ON THE CER-
8 TIFICATE OF FORECLOSURE OF THE GARAGE KEEPER'S LIEN AND BILL OF
9 SALE BY THE DEPARTMENT.

10 (B) UPON COMPLETION OF THE INVESTIGATION OR THE EXPIRATION
11 OF THE 150-CALENDAR-DAY PERIOD, WHICHEVER OCCURS FIRST, THE
12 BUREAU SHALL DO 1 OF THE FOLLOWING:

13 (i) REMOVE THE OBJECTION TO THE SALE.

14 (ii) COMPLETE SERVICE UPON THE GARAGE KEEPER OF A WRITTEN
15 NOTICE OF ALLEGED VIOLATION THAT ALLEGES A SPECIFIC VIOLATION OF
16 THE MOTOR VEHICLE SERVICE AND REPAIR ACT, 1974 PA 300, MCL
17 257.1301 TO 257.1340, OR THE RULES PROMULGATED UNDER THAT ACT,
18 AND EXTENDS THE BUREAU'S OBJECTION TO THE SALE INDEFINITELY UNTIL
19 RESOLUTION UNDER THIS SECTION.

20 (C) THE GARAGE KEEPER MAY, WITHIN 10 DAYS AFTER THE PERSONAL
21 SERVICE OR POSTMARKED DATE OF THE NOTICE OF ALLEGED VIOLATION,
22 NOTIFY THE BUREAU, IN WRITING, THAT THE GARAGE KEEPER WANTS TO
23 CONTEST THE NOTICE OF ALLEGED VIOLATION. IF THE GARAGE KEEPER
24 CONTESTS THE NOTICE, THE BUREAU SHALL CONDUCT AN IMMEDIATE REVIEW
25 OF ITS REASONS FOR THE OBJECTION. AFTER THIS REVIEW, THE BUREAU
26 SHALL DO 1 OF THE FOLLOWING:

1 (i) REMOVE THE OBJECTION TO THE SALE.

2 (ii) IF THE OBJECTION IS SUSTAINED, THE BUREAU SHALL, IN
3 WRITING, OFFER THE GARAGE KEEPER AN OPPORTUNITY TO HAVE THE
4 BUREAU'S OBJECTION RESOLVED UNDER THE ADMINISTRATIVE PROCEDURES
5 ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328, AS A CONTESTED
6 CASE PROCEEDING UNDER THE MOTOR VEHICLE SERVICE AND REPAIR ACT,
7 1974 PA 300, MCL 257.1301 TO 257.1340. IF A CONTESTED CASE PRO-
8 CEEDING IS PURSUED UNDER THIS SECTION, THE BUREAU MAY INCLUDE IN
9 THAT PROCEEDING'S COMPLAINT ANY OTHER OUTSTANDING ALLEGED REPAIR
10 ACT OR RULE VIOLATION AGAINST THE GARAGE KEEPER THAT MAY BE PUR-
11 SUED THROUGH A CONTESTED CASE PROCEEDING. IF THE GARAGE KEEPER
12 FAILS TO RESPOND TO THE OFFER FOR A CONTESTED CASE PROCEEDING
13 WITHIN 10 DAYS OF RECEIVING THE OFFER FROM THE BUREAU, THE
14 BUREAU'S OBJECTION TO THE LIEN SHALL BE DEEMED PERMANENT.

15 (D) STORAGE CHARGES PROVIDED FOR UNDER THIS ACT SHALL NOT
16 ACCRUE DURING THE PERIOD THAT THE BUREAU OBJECTS TO THE SALE.

17 (E) THE 225-DAY PERIOD PROVIDED FOR IN SECTION 3(2) SHALL BE
18 EXTENDED BY THE NUMBER OF DAYS THAT THE BUREAU OBJECTS TO THE
19 SALE.

20 (6) A sale of the vehicle shall be held at the facility of
21 the garage keeper or at the nearest suitable place.

22 (7) Before a sale of a vehicle pursuant to this section, the
23 owner OR OWNERS may pay the amount necessary to satisfy the lien,
24 in addition to the reasonable expenses or fees incurred by the
25 garage keeper under this act, and redeem the vehicle. Upon
26 receipt of this payment, the garage keeper shall return the
27 vehicle to the owner OR OWNERS in the same condition, or

1 substantially the same condition, as ~~it~~ THE VEHICLE was in when
2 ~~stored by the garage keeper~~ THE LIEN ATTACHED UNDER SECTION
3 3(1).

4 (8) Not less than 30 CALENDAR days ~~before a sale is held~~
5 ~~under this section, the garage keeper shall give written notice~~
6 ~~of the manner, time, and place of the sale to each lienholder as~~
7 ~~shown by the records of the department, and to the owner of the~~
8 ~~vehicle. Notice to the lienholders shall be given by certified~~
9 ~~mail, addressed to the lienholders, as shown by the records of~~
10 ~~the department. Notice to the owner of the vehicle shall be~~
11 ~~given by certified mail, directly to the last known address of~~
12 ~~the owner.~~ AFTER THE GARAGE KEEPER'S NOTICE IS MAILED TO THE
13 OWNER OR OWNERS, AND PRIOR TO THE SALE, A LIENHOLDER MAY PAY THE
14 GARAGE KEEPER THE AMOUNT OF THE GARAGE KEEPER'S LIEN AS CALCU-
15 LATED UNDER SECTIONS 3(4) AND 4, OR ANOTHER AMOUNT TO WHICH THE
16 LIENHOLDER AND GARAGE KEEPER AGREE. UPON RECEIPT OF THIS PAY-
17 MENT, THE GARAGE KEEPER SHALL RETURN THE VEHICLE TO THE LIEN-
18 HOLDER IN THE SAME CONDITION, OR SUBSTANTIALLY THE SAME CONDI-
19 TION, AS THE VEHICLE WAS IN WHEN REPAIRS WERE COMPLETED AND IT
20 WAS STORED BY THE GARAGE KEEPER OR, IF NO REPAIRS WERE AUTHORIZED
21 BY THE OWNER, IN THE SAME CONDITION OR SUBSTANTIALLY THE SAME
22 CONDITION, AS THE VEHICLE WAS IN WHEN IT WAS RECEIVED BY THE
23 GARAGE KEEPER. IF THE GARAGE KEEPER PERFORMED DIAGNOSTIC TESTS
24 ON THE VEHICLE FOR WHICH A LIEN IS CLAIMED, THE GARAGE KEEPER
25 SHALL INCLUDE A WRITTEN EXPLANATION OF THE RESULTS OF THE DIAG-
26 NOSTIC TESTS PERFORMED WHEN THE GARAGE KEEPER RETURNS THE VEHICLE
27 TO THE LIENHOLDER. THE AMOUNT OF A PAYMENT MADE UNDER THIS

1 SECTION SHALL BE ADDED TO THE AMOUNT OF THE PRIOR LIENHOLDER'S
2 LIEN.

3 (9) ~~Before a sale of a vehicle under this act, a lienholder~~
4 ~~of a vehicle to be sold may pay the garage keeper the amount of~~
5 ~~the garage keeper's lien, in addition to the reasonable expenses~~
6 ~~or fees incurred by the garage keeper under this act, or another~~
7 ~~amount to which the lienholder and garage keeper agree. However,~~
8 ~~the amount payable to the garage keeper shall not exceed the~~
9 ~~market value of the vehicle. A payment made to the garage keeper~~
10 ~~shall be added to the amount of the lien of the lienholder who~~
11 ~~made the payment, and shall be subtracted from the amount of the~~
12 ~~garage keeper's lien. Upon receipt of this payment, the garage~~
13 ~~keeper shall return the vehicle to the lienholder in the same~~
14 ~~condition, or substantially the same condition, as it was in when~~
15 ~~repairs were completed and as stored by the garage keeper. THE~~
16 AMOUNT PAYABLE TO THE GARAGE KEEPER SHALL NOT EXCEED THE MARKET
17 VALUE OF THE VEHICLE.

18 (10) ~~After the expiration of the 45-day period described in~~
19 ~~subsection (3), the garage keeper may apply to the department for~~
20 ~~a certificate, in a form as prescribed by the secretary of state,~~
21 ~~for a fee of \$10.00 paid to the secretary of state. Upon the~~
22 PUBLIC sale of a vehicle under this act, the garage keeper shall
23 complete the certificate DESCRIBED IN SUBSECTION (3) as indicated
24 on its face and give the completed certificate to the purchaser
25 of the vehicle. In addition to other information that may be
26 required by the secretary of state, the purchaser shall submit
27 this certificate to the department when making an original

1 application for a certificate of title or a vehicle registration
2 for the vehicle in the name of the purchaser.

3 (11) The garage keeper may bid for and purchase the vehicle
4 at the sale. If the garage keeper directly or indirectly pur-
5 chases the vehicle at the sale, the ~~proceeds of the sale shall~~
6 ~~be considered to be the greater of the following:~~

7 ~~(a) The amount paid by the garage keeper.~~

8 ~~(b) The market value of the vehicle at the time of sale.~~

9 LIEN GRANTED UNDER THIS ACT IS EXTINGUISHED IN FULL.

10 (12) A person who in good faith buys a vehicle at a sale
11 conducted pursuant to this act takes the vehicle free of a secur-
12 ity interest created by the seller even though the security
13 interest is perfected and even though the buyer knows of its
14 existence.

15 Sec. 6. (1) After the amount of the lien under section 3 is
16 paid to the garage keeper and the costs of the sale are deducted,
17 any remaining money shall be paid to the following persons in
18 this descending order of priority:

19 (a) A prior lienholder who gives notice to the garage keeper
20 of his or her claim of lien before the distribution of the money
21 realized from a sale under this act is complete.

22 (b) The reasonable charges of the garage keeper.

23 (c) The owner OR OWNERS of the vehicle as described in
24 subsection (2).

25 (2) Proceeds of the sale remaining after the distribution is
26 made under subsection (1) shall be returned to the owner of the
27 vehicle by mailing the proceeds to the owner's last known address

1 by certified mail. If the garage keeper cannot locate the owner
2 within 14 CALENDAR days after the date of the sale, the remaining
3 money shall be transmitted to the department. If the owner does
4 not claim the remaining money within 2 years after the date of
5 the sale, it shall escheat to the state.

6 SEC. 10. A PERSON, AGENT, OR EMPLOYEE OF A GARAGE KEEPER
7 WHO KNOWINGLY MAKES A FALSE STATEMENT ON AN APPLICATION FOR A
8 GARAGE KEEPER'S LIEN, THE DOCUMENTS FILED BY THE APPLICANT WITH
9 THE DEPARTMENT IN SUPPORT OF THE APPLICATION FOR A GARAGE
10 KEEPER'S LIEN, OR A CERTIFICATION REQUIRED UNDER THIS ACT IS
11 GUILTY OF A MISDEMEANOR PUNISHABLE BY A FINE OF NOT MORE THAN
12 \$1,000.00 OR IMPRISONMENT FOR NOT MORE THAN 90 DAYS, OR BOTH, FOR
13 THE FIRST CONVICTION UNDER THIS SECTION, AND A FINE OF NOT MORE
14 THAN \$5,000.00 OR IMPRISONMENT FOR NOT MORE THAN 1 YEAR, OR BOTH,
15 FOR ANY SUBSEQUENT CONVICTION UNDER THIS SECTION.