

One Minute Brief

LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
DISTRICT ATTORNEY NATHAN J. HOCHMAN



da.lacounty.gov •    @LADAAOffice •   @LACountyDA

NUMBER: 2025-11
BY: Michele A. Hanisee

DATE: Oct. 1, 2025
TOPIC: Vehicle Code § 10851

ISSUE: When does the value of a vehicle have to be proved for a violation of VC § 10851 to qualify as a felony?

The statute of unlawful driving or taking of a vehicle in violation of Vehicle Code § 10851 can be violated in four different ways:

- (1) taking a vehicle with the intent to permanently deprive the owner;
- (2) taking a vehicle with the intent to temporarily deprive the owner;
- (3) driving a vehicle with the intent to permanently deprive the owner;
- (4) driving a vehicle with the intent to temporarily deprive the owner.

People v. Morales (2019) 33 Cal.App.5th 800, 804.

The unlawful taking of a vehicle with intent to *temporarily* deprive the owner does not qualify as theft because it lacks the element of intent to steal—that is, the intent to permanently deprive the owner of its possession. *People v. Page* (2017) 3 Cal.5th 1175, 1182. Unlawful *driving* of a vehicle is not a form of theft when the driving occurs or continues *after* the theft is complete. *People v. Lara* (2019) 6 Cal.5th 1128, 1136; *People v. Garza* (2005) 35 Cal.4th 866, 871.

Proposition 47 applies to all theft offense including violations of Vehicle Code § 10851 that are based on *theft* of a vehicle. *People v. Page* (2017) 3 Cal.5th 1175. When a violation of section 10851 is charged based on the *taking* of a vehicle with intent to *permanently deprive* its owner, it must also be proved that the value of the vehicle exceeded \$950 in order for the offense to qualify as a felony. *People v. Page* (2017) 3 Cal.5th 1175, 1180; *People v. Jackson* (2018) 26 Cal.App.5th 371, 378.

However, all three other non-theft methods of violating section 10851, including violations committed by posttheft driving, may be punished as a felony regardless of the value of the vehicle. *People v. Morales* (2019) 33 Cal.App.5th 800, 804; *People v. Lara* (2019) 6 Cal.5th 1128.

In *Page*, the California Supreme Court discussed the distinction between vehicle theft and posttheft driving. “Posttheft driving in violation of Vehicle Code section 10851 consists of driving a vehicle without the owner’s consent after the vehicle has been stolen, with the intent to temporarily or permanently deprive the owner of title or possession. Where the evidence shows a ‘substantial break’ between the taking and the driving,

posttheft driving may give rise to a conviction under Vehicle Code section 10851 distinct from any liability for vehicle theft." *People v. Page* (2017) 3 Cal.5th 1175, 1188.

In *People v. Lara, supra*, evidence of posttheft driving was sufficient to support a felony conviction where the defendant was found driving the stolen car six or seven days after it was taken from its owner such that there was a substantial break between the time of the theft and the defendant's act of driving.

In *People v. Garza, supra*, defendant's conviction for a violation of section 10851(a) was properly construed as posttheft driving. At trial, the evidence showed that the defendant had been fired as a mechanic from the limousine service from which the vehicle and keys were stolen. The vehicle was located six days later in a strip mall. The defendant was seated in the driver's seat of the vehicle, with the keys in the ignition and the engine running. Defendant was overcome by drug intoxication. The court found "[t]he theft of the vehicle six days earlier was long since complete, and the driving therefore constituted a separate, distinct, and complete violation of section 10851(a)." *Garza* at 882.

Separate Offenses

Because section 10851 separately prohibits the acts of driving a vehicle and taking a vehicle, a defendant who steals a vehicle and then continues to drive it after the theft is complete commits separate and distinct violations of section 10851(a). *People v. Jackson* (2018) 26 Cal.App.5th 371, 376.

While a defendant cannot be convicted both for the theft of a car under section 10851(a) and of receiving the same car as stolen property under PC 496(a), a person *can* be convicted both of section 10851(a) for posttheft driving of a vehicle and for receiving the same vehicle as stolen property under PC 496(a). *People v. Garza* (2005) 35 Cal.4th 866.

Jury Instructions:

If the offense is predicated on the theft of a vehicle, the jury must be instructed that defendant cannot be convicted of a felony unless the prosecution proves that the vehicle taken was worth more than \$950. *People v. Jackson* (2018) 26 Cal.App.5th 371.

If the offense is predicated on unlawful driving rather than unlawful taking, jury instructions and verdict forms should so reflect to avoid error. *People v. Lara* (2019) 6 Cal.5th 1128.

BOTTOM LINE: Only violations of Vehicle Code § 10851 that are predicated on theft – e.g., a taking of the vehicle with intent to permanently deprive – require proof that the vehicle is worth over \$950 to meet the threshold for a felony. All other forms of Section 10851(a) are a felony regardless of vehicle value.

This information was current as of publication date. It is not intended as legal advice. It is recommended that readers check for subsequent developments and consult legal advisors to ensure currency after publication. Local policies and procedures regarding application should be observed.