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Anti-prostitution plan could put Johns on spot

By Larry Hicks
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The automobile isn't quite as old as the oldest profession, but for much of the 20th century the two have pretty much gone hand-in-hand in the practice of prostitution.

Now Sacramento City Councilman Samuel Pannell thinks it's time to put the brakes on the "Johns" who prowl the strips along Stockton Boulevard, Broadway, downtown and North Sacramento.

Pannell is proposing a law that would al-

low the city to impound and sell the vehicles of people arrested or cited for soliciting prostitution.

Pannell, who represents parts of south Sacramento, said prostitution has begun to surface in his district at Meadowview Road and Amherst Street, and Caselli Circle.

"I'm trying to knock it out before it gets really out of hand," Pannell said, adding that an ordinance seizing the vehicles would bolster standard anti-prostitution efforts and serve as a strong deterrent.

"It's kind of hard to go home to your wife and explain that your car got impounded by

the police, or your car is going to be auctioned off by the police, because you were busted for solicitation," Pannell said. "I think this helps ease the problem when you start talking about taking people's automobiles."

Pannell's proposal is modeled after an ordinance in Portland, Ore. That law has helped curb prostitution in the city, he said.

In December 1992, the Portland City Council approved an ordinance that allows police to seize automobiles driven by anyone whose license was previously suspended for drunken driving or accused

of soliciting a prostitute. A person must be arrested twice for soliciting before his or her car is seized.

"We think it's very successful," said Mary Overgaard, Portland's deputy city attorney. "We have managed to move prostitution out of neighborhoods where it's been a chronic problem."

Since the law's inception, Portland has seized 783 vehicles from Johns and sold 44. The city sold a greater number - 167 vehicles - belonging to people arrested or cited

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for having a suspended license for drunken driving.

Police must go through a civil forfeiture hearing in order to keep a car, Overgaard said. The program largely pays for itself because offenders pay the cost of enforcement, towing and storage.

"We do about four (stings) in an area and hookers and Johns stop coming around," she said.

The Sacramento city attorney will study the Portland ordinance to determine if such a law would be constitutional here.

"I can't tell you whether such a proposal would be allowable under state law or not," said City Attorney Sharon Cardenas. "We'd have to look at all the state law provisions regarding impounding of vehicles, which I imagine is in the vehicle code. And also see if there are any provisions in the penal codes that would impact our ability to do it," she said.

Portland's ordinance was made possible by enabling legislation from the state that allows forfeiture of vehicles used in crimes, such as drug dealing.

The Portland ordinance has been challenged by the American Civil Liberties Union of Oregon as unconstitutional because it is applied as a civil statute.

"Forfeiture has turned the

whole criminal justice system on its head," said David Fidanque, executive director of the Oregon ACLU. "We believe that, generally, forfeiture is unconstitutional because it attempts to impose punishment for criminal conduct without bothering to convict people," he said.

In a forfeiture case, the government holds all the cards, Fidanque said, because all a prosecutor has to do is show probable cause that the property is connected with criminal activity to seize it. And probable cause is a very minimal standard, he said.

"So not only is the presumption of innocence thrown out the window but so are the normal rules of evidence," Fidanque said. "It is a nifty way for law enforcement to bypass due process."

Despite the ACLU protest, the Portland law has withstood legal challenges, Overgaard said. "The ACLU has been harping on this for four years and they haven't won a case yet," she said.

Pannell hopes a similar law in Sacramento will choke off the demand side of the prostitution trade.

"It's putting enforcement on the Johns rather than the ladies," he said. "This puts enforcement on the people who are basically out there creating the problem."