

AMENDED IN SENATE APRIL 26, 2001

**SENATE BILL**

**No. 667**

**Introduced by Senator Peace**

February 23, 2001

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~~An act to amend Section 1770 of the Civil Code, relating to consumer protection.~~ *An act to amend Sections 210 and 40518 of, and to repeal Sections 21455.5 and 21455.6 of, the Vehicle Code, relating to vehicles.*

LEGISLATIVE COUNSEL'S DIGEST

SB 667, as amended, Peace. ~~Consumer protection~~ *Automated enforcement system.*

*Existing law authorizes governmental agencies, in cooperation with law enforcement agencies, to operate an automated enforcement system. Under existing law, an automated enforcement system is a system that photographically records a driver's response to a rail or rail transit signal or crossing gate, or both, or to an official traffic control signal (stoplight) and is designed to obtain a clear photograph of the vehicle's license plate and the driver of the vehicle.*

*This bill would delete the application of automated enforcement systems with regard to official traffic control signals.*

~~Existing law prohibits unfair methods of competition and unfair or deceptive acts or practices undertaken by any person in a transaction intended to result or which results in the sale or lease of goods or services to any consumer, as specified.~~

~~This bill would make technical, nonsubstantive changes to these provisions.~~

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 1770 of the Civil Code is amended to~~  
2 *SECTION 1. Section 210 of the Vehicle Code is amended to*  
3 *read:*

4 210. An “automated enforcement system” is any system  
5 operated by a governmental agency, in cooperation with a law  
6 enforcement agency, that photographically records a driver’s  
7 responses to a rail or rail transit signal or crossing gate, or both, ~~or~~  
8 ~~to an official traffic control signal described in Section 21450,~~ and  
9 is designed to obtain a clear photograph of a vehicle’s license plate  
10 and the driver of the vehicle.

11 *SEC. 2. Section 21455.5 of the Vehicle Code is repealed.*  
12 ~~21455.5. (a) The limit line, the intersection, or other places~~  
13 ~~designated in Section 21455 where a driver is required to stop may~~  
14 ~~be equipped with an automated enforcement system if the system~~  
15 ~~is identified by signs, clearly indicating the system’s presence,~~  
16 ~~visible to traffic approaching from all directions, or if signs are~~  
17 ~~posted at all major entrances to the city, including, at a minimum,~~  
18 ~~freeways, bridges, and state highway routes.~~

19 ~~Any city utilizing an automated traffic enforcement system at~~  
20 ~~intersections shall, prior to issuing citations, commence a program~~  
21 ~~to issue only warning notices for 30 days. The local jurisdiction~~  
22 ~~shall also make a public announcement of the automated traffic~~  
23 ~~enforcement system at least 30 days prior to the commencement~~  
24 ~~of the enforcement program.~~

25 ~~Only a governmental agency, in cooperation with a law~~  
26 ~~enforcement agency, may operate an automated enforcement~~  
27 ~~system.~~

28 ~~(b) Notwithstanding Section 6253 of the Government Code, or~~  
29 ~~any other provision of law, photographic records made by an~~  
30 ~~automated enforcement system shall be confidential, and shall be~~  
31 ~~made available only to governmental agencies and law~~  
32 ~~enforcement agencies for the purposes of this article.~~

33 ~~(c) Notwithstanding subdivision (b), the registered owner or~~  
34 ~~any individual identified by the registered owner as the driver of~~  
35 ~~the vehicle at the time of the alleged violation shall be permitted~~  
36 ~~to review the photographic evidence of the alleged violation.~~

37 *SEC. 3. Section 21455.6 of the Vehicle Code is repealed.*



1 ~~21455.6. (a) A city council or county board of supervisors~~  
2 ~~shall conduct a public hearing on the proposed use of automated~~  
3 ~~enforcement systems authorized pursuant to Section 21455.5 prior~~  
4 ~~to that city or county entering into a contract for the use of those~~  
5 ~~systems.~~

6 ~~(b) The authorization in Section 21455.5 to use automated~~  
7 ~~enforcement systems does not authorize the use of photo radar for~~  
8 ~~speed enforcement purposes by any jurisdiction.~~

9 *SEC. 4. Section 40518 of the Vehicle Code is amended to read:*

10 40518. (a) Whenever a written notice to appear has been  
11 issued by a peace officer or by a qualified employee of a law  
12 enforcement agency on a form approved by the Judicial Council  
13 for an alleged violation of Section 22451, ~~or, based on an alleged~~  
14 ~~violation of Section 21453, 21455, or 22101~~ recorded by an  
15 automated enforcement system pursuant to Section ~~21455.5 or~~  
16 22451, and delivered by mail within 15 days of the alleged  
17 violation to the current address of the registered owner of the  
18 vehicle on file with the department, with a certificate of mailing  
19 obtained as evidence of service, an exact and legible duplicate  
20 copy of the notice when filed with the magistrate shall constitute  
21 a complaint to which the defendant may enter a plea. Preparation  
22 and delivery of a notice to appear pursuant to this section is not an  
23 arrest.

24 (b) A notice to appear shall contain the name and address of the  
25 person, the license plate number of the person's vehicle, the  
26 violation charged, including a description of the offense, and the  
27 time and place when, and where, the person may appear in court  
28 or before a person authorized to receive a deposit of bail. The time  
29 specified shall be at least 10 days after the notice to appear is  
30 delivered.

31 read:

32 ~~1770. (a) The following unfair methods of competition and~~  
33 ~~unfair or deceptive acts or practices undertaken by any person in~~  
34 ~~a transaction intended to result or which results in the sale or lease~~  
35 ~~of goods or services to any consumer are unlawful:~~

36 ~~(1) Passing off goods or services as those of another.~~

37 ~~(2) Misrepresenting the source, sponsorship, approval, or~~  
38 ~~certification of goods or services.~~

39 ~~(3) Misrepresenting the affiliation, connection, or association~~  
40 ~~with, or certification by, another.~~



- 1     ~~(4) Using deceptive representations or designations of~~  
2 ~~geographic origin in connection with goods or services.~~
- 3     ~~(5) Representing that goods or services have sponsorship,~~  
4 ~~approval, characteristics, ingredients, uses, benefits, or quantities~~  
5 ~~that they do not have, or that a person has a sponsorship, approval,~~  
6 ~~status, affiliation, or connection that he or she does not have.~~
- 7     ~~(6) Representing that goods are original or new if they have~~  
8 ~~deteriorated unreasonably or are altered, reconditioned,~~  
9 ~~reclaimed, used, or secondhand.~~
- 10    ~~(7) Representing that goods or services are of a particular~~  
11 ~~standard, quality, or grade, or that goods are of a particular style~~  
12 ~~or model, if they are of another.~~
- 13    ~~(8) Disparaging the goods, services, or business of another by~~  
14 ~~false or misleading representation of fact.~~
- 15    ~~(9) Advertising goods or services with intent not to sell them~~  
16 ~~as advertised.~~
- 17    ~~(10) Advertising goods or services with intent not to supply~~  
18 ~~reasonably expectable demand, unless the advertisement discloses~~  
19 ~~a limitation of quantity.~~
- 20    ~~(11) Advertising furniture without clearly indicating that it is~~  
21 ~~unassembled if that is the case.~~
- 22    ~~(12) Advertising the price of unassembled furniture without~~  
23 ~~clearly indicating the assembled price of that furniture if the same~~  
24 ~~furniture is available assembled from the seller.~~
- 25    ~~(13) Making false or misleading statements of fact concerning~~  
26 ~~reasons for, existence of, or amounts of price reductions.~~
- 27    ~~(14) Representing that a transaction confers or involves rights,~~  
28 ~~remedies, or obligations which it does not have or involve, or~~  
29 ~~which are prohibited by law.~~
- 30    ~~(15) Representing that a part, replacement, or repair service is~~  
31 ~~needed when it is not.~~
- 32    ~~(16) Representing that the subject of a transaction has been~~  
33 ~~supplied in accordance with a previous representation when it has~~  
34 ~~not.~~
- 35    ~~(17) Representing that the consumer will receive a rebate,~~  
36 ~~discount, or other economic benefit, if the earning of the benefit~~  
37 ~~is contingent on an event to occur subsequent to the consummation~~  
38 ~~of the transaction.~~



1 ~~(18) Misrepresenting the authority of a salesperson,~~  
2 ~~representative, or agent to negotiate the final terms of a transaction~~  
3 ~~with a consumer.~~

4 ~~(19) Inserting an unconscionable provision in the contract.~~

5 ~~(20) Advertising that a product is being offered at a specific~~  
6 ~~price plus a specific percentage of that price unless (1) the total~~  
7 ~~price is set forth in the advertisement, which may include, but is~~  
8 ~~not limited to, shelf tags, displays, and media advertising, in a size~~  
9 ~~larger than any other price in that advertisement, and (2) the~~  
10 ~~specific price plus a specific percentage of that price represents a~~  
11 ~~markup from the seller's costs or from the wholesale price of the~~  
12 ~~product. This subdivision shall not apply to in-store advertising by~~  
13 ~~businesses which are open only to members or cooperative~~  
14 ~~organizations organized pursuant to Division 3 (commencing with~~  
15 ~~Section 12000) of Title 1 of the Corporations Code where more~~  
16 ~~than 50 percent of purchases are made at the specific price set forth~~  
17 ~~in the advertisement.~~

18 ~~(21) Selling or leasing goods in violation of Chapter 4~~  
19 ~~(commencing with Section 1797.8) of Title 1.7.~~

20 ~~(22) (A) Disseminating an unsolicited prerecorded message~~  
21 ~~by telephone without an unrecorded, natural voice first informing~~  
22 ~~the person answering the telephone of the name of the caller or the~~  
23 ~~organization being represented, and either the address or the~~  
24 ~~telephone number of the caller, and without obtaining the consent~~  
25 ~~of that person to listen to the prerecorded message.~~

26 ~~(B) This subdivision does not apply to a message disseminated~~  
27 ~~to a business associate, customer, or other person having an~~  
28 ~~established relationship with the person or organization making~~  
29 ~~the call, to a call for the purpose of collecting an existing~~  
30 ~~obligation, or to any call generated at the request of the recipient.~~

31 ~~(23) The home solicitation, as defined in subdivision (h) of~~  
32 ~~Section 1761, of a consumer who is a senior citizen where a loan~~  
33 ~~is made encumbering the primary residence of that consumer for~~  
34 ~~the purposes of paying for home improvements and where the~~  
35 ~~transaction is part of a pattern or practice in violation of either~~  
36 ~~subsection (h) or (i) of Section 1639 of Title 15 of the United States~~  
37 ~~Code or subsection (e) of Section 226.32 of Title 12 of the Code~~  
38 ~~of Federal Regulations.~~

39 ~~A third party shall not be liable under this subdivision unless (1)~~  
40 ~~there was an agency relationship between the party who engaged~~



1 ~~in-home solicitation and the third party or (2) the third party had~~  
2 ~~actual knowledge of, or participated in, the unfair or deceptive~~  
3 ~~transaction. A third party who is a holder in due course under a~~  
4 ~~home solicitation transaction shall not be liable under this~~  
5 ~~subdivision.~~

6 ~~(b) (1) It is an unfair or deceptive act or practice for a mortgage~~  
7 ~~broker or lender, directly or indirectly, to use a home improvement~~  
8 ~~contractor to negotiate the terms of any loan that is secured,~~  
9 ~~whether in whole or in part, by the residence of the borrower and~~  
10 ~~which is used to finance a home improvement contract or any~~  
11 ~~portion thereof. For purposes of this subdivision, “mortgage~~  
12 ~~broker or lender” includes a finance lender licensed pursuant to~~  
13 ~~the California Finance Lenders Law (Division 9 (commencing~~  
14 ~~with Section 22000) of the Financial Code), a residential mortgage~~  
15 ~~lender licensed pursuant to the California Residential Mortgage~~  
16 ~~Lending Act (Division 20 (commencing with Section 50000) of~~  
17 ~~the Financial Code), or a real estate broker licensed under the Real~~  
18 ~~Estate Law (Division 4 (commencing with Section 10000) of the~~  
19 ~~Business and Professions Code).~~

20 ~~(2) This section shall not be construed to either authorize or~~  
21 ~~prohibit a home improvement contractor from referring a~~  
22 ~~consumer to a mortgage broker or lender . However, a home~~  
23 ~~improvement contractor may refer a consumer to a mortgage~~  
24 ~~lender or broker if that referral does not violate Section 7157 of the~~  
25 ~~Business and Professions Code or any other provision of law. A~~  
26 ~~mortgage lender or broker may purchase an executed home~~  
27 ~~improvement contract if that purchase does not violate Section~~  
28 ~~7157 of the Business and Professions Code or any other provision~~  
29 ~~of law. Nothing in this paragraph shall have any effect on the~~  
30 ~~application of Chapter 1 (commencing with Section 1801) of Title~~  
31 ~~2 to a home improvement transaction or the financing thereof.~~

