

AMENDED IN ASSEMBLY APRIL 14, 2011

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1311

Introduced by Assembly Member Miller

February 18, 2011

An act to amend ~~Sections 21455.6, 40518, and 40520~~ *Section 21455.6* of, and to add Section 22368 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1311, as amended, Miller. Vehicles: automated speed enforcement systems.

Existing law does not expressly authorize the use of photo radar from an automated enforcement system for speed enforcement purposes by any jurisdiction.

This bill would authorize a local authority to ~~establish~~ *participate in a local traffic safety program* ~~utilizing that studies the feasibility of using~~ an automated speed enforcement system for speed enforcement only in areas designated as school zones; ~~if specified conditions are met.~~

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. The Legislature finds and declares all of the
- 2 following:

1 (a) A school zone refers to the area described in subparagraph
 2 (B) of paragraph (2) of subdivision (a) of Section 22352 of the
 3 Vehicle Code on streets near a school or near a crosswalk leading
 4 to a school that has a likely presence of schoolchildren or younger
 5 pedestrians. School zones generally have a reduced speed limit
 6 during certain hours in order to protect children and younger
 7 pedestrians.

8 (b) Safety in school zones is critical to the safety of young
 9 children, and it is the intent of the Legislature to vigilantly enforce
 10 speed limits applicable in school zones to protect this vulnerable
 11 population. Traffic speed enforcement is critical to law enforcement
 12 agencies' efforts to reduce factors that contribute to traffic
 13 collisions and collisions involving pedestrians.

14 (c) Law enforcement and local agencies employ a variety of
 15 methods to reduce speeding, including, but not limited to,
 16 engineering, education, and enforcement. Additional tools,
 17 including the use of automated enforcement systems, are available
 18 to assist law enforcement in addressing excessive speeding and
 19 speed-related accidents. Automated speed enforcement offers a
 20 high rate of detection, and, in conjunction with education,
 21 engineering, and law enforcement measures, it can significantly
 22 improve traffic safety.

23 (d) Several automated enforcement programs implemented in
 24 other cities and states have proven successful in reducing speeding
 25 and addressing traffic safety concerns. These programs have also
 26 given policymakers the opportunity to assess which programs have
 27 operated appropriately and successfully. The automated speed
 28 enforcement programs that this act authorizes are limited to school
 29 zones.

30 SEC. 2. Section 21455.6 of the Vehicle Code is amended to
 31 read:

32 21455.6. (a) A city council or county board of supervisors
 33 shall conduct a public hearing on the proposed use of an automated
 34 traffic enforcement system authorized under Section 21455.5 prior
 35 to authorizing the city or county to enter into a contract for the use
 36 of the system.

37 (b) (1) The activities listed in subdivision (c) of Section 21455.5
 38 that relate to the operation of an automated traffic enforcement
 39 system may be contracted out by the city or county, except that
 40 the activities listed in paragraph (1) of, and subparagraphs (A),

1 (D), (E), or (F) of paragraph (2) of, subdivision (c) of Section
2 21455.5 may not be contracted out to the manufacturer or supplier
3 of the automated traffic enforcement system.

4 (2) Paragraph (1) does not apply to a contract that was entered
5 into by a city or county and a manufacturer or supplier of
6 automated traffic enforcement equipment before January 1, 2004,
7 unless that contract is renewed, extended, or amended on or after
8 January 1, 2004.

9 (c) Except as authorized pursuant to Section 22368, the
10 authorization in Section 21455.5 to use automated traffic
11 enforcement systems does not authorize the use of photo radar for
12 speed enforcement purposes by any jurisdiction.

13 *SEC. 3. Section 22368 is added to the Vehicle Code, to read:*
14 *22368. A local authority may participate in a local traffic safety*
15 *program that studies the feasibility of using an automated speed*
16 *enforcement, system for speed enforcement only in areas*
17 *designated as school zones.*

18 ~~SEC. 3. Section 22368 is added to the Vehicle Code, to read:~~
19 ~~22368. (a) As used in this section, "automated speed~~
20 ~~enforcement system" or "ASE system" means a fixed or a mobile~~
21 ~~photo enforcement system operated by a law enforcement agency~~
22 ~~that utilizes automated equipment to detect a violation of speeding~~
23 ~~laws and is designed to obtain a clear photograph of a vehicle's~~
24 ~~license plate.~~

25 ~~(b) A local authority may establish a program utilizing an ASE~~
26 ~~system for speed enforcement in school zones, provided the system~~
27 ~~satisfies the following requirements:~~

28 ~~(1) Identifies clearly the presence of the fixed or mobile ASE~~
29 ~~system by signs that are visible to traffic entering the roadway in~~
30 ~~the direction in which the ASE system is utilized.~~

31 ~~(2) For mobile systems, identifies, with distinctive markings,~~
32 ~~the vehicle containing the mobile automated speed enforcement~~
33 ~~equipment.~~

34 ~~(3) Provides notice to drivers that a photographic record may~~
35 ~~be taken when the driver passes the vehicle containing the mobile~~
36 ~~ASE system.~~

37 ~~(e) Prior to enforcing speed and traffic laws utilizing an ASE~~
38 ~~system, a local authority shall do both of the following:~~

39 ~~(1) Make a public announcement about the system, that includes~~
40 ~~public information regarding the hazards of excessive speed in~~

1 school zones, at least 30 days following the installation of the signs
2 placed pursuant to paragraph (1) of subdivision (b).
3 ~~(2) Issue only warning notices for the first 30 days of~~
4 ~~enforcement under the program.~~
5 ~~(d) A local authority with the oversight of a local law~~
6 ~~enforcement agency may operate an ASE system pursuant to this~~
7 ~~section. As used in this subdivision, “operate” includes all of the~~
8 ~~following activities:~~
9 ~~(1) Develop uniform guidelines for all of the following:~~
10 ~~(A) The selection of school zones where the system will be~~
11 ~~utilized.~~
12 ~~(B) The screening and issuing of citations.~~
13 ~~(C) The processing and storage of confidential information.~~
14 ~~(D) The establishment of procedures to ensure compliance with~~
15 ~~the guidelines.~~
16 ~~(2) Perform administrative and day-to-day functions, including,~~
17 ~~but not limited to, all of the following:~~
18 ~~(A) Certify that the equipment is properly installed and~~
19 ~~calibrated and is operating properly so that, at a minimum, the~~
20 ~~radar or other electronic device used to measure the speed of the~~
21 ~~accused meets or exceeds the minimum operational standards and~~
22 ~~has been calibrated within three years prior to the date of the~~
23 ~~alleged violation by an independent certified repair and testing or~~
24 ~~calibration facility.~~
25 ~~(B) Ensure that the equipment is regularly inspected.~~
26 ~~(C) Regularly inspect and maintain warning signs placed~~
27 ~~pursuant to paragraph (1) of subdivision (b).~~
28 ~~(D) Maintain controls necessary to ensure that only those~~
29 ~~citations that have been reviewed and approved by law enforcement~~
30 ~~are issued.~~
31 ~~(E) Citations issued pursuant to this section shall include a clear~~
32 ~~photo of the license plate of the vehicle and a description of the~~
33 ~~alleged violation, including the time when the alleged violation~~
34 ~~occurred. A separate document that contains both a brief, basic~~
35 ~~explanation of California speed laws, including references, and an~~
36 ~~explanation that the driver has a right to appeal the violation shall~~
37 ~~accompany the citation.~~
38 ~~(e) (1) Notwithstanding Section 6253 of the Government Code,~~
39 ~~or any other law, photographic records made by an ASE system~~
40 ~~shall be confidential, and shall be made available only to~~

1 governmental agencies and law enforcement agencies and only
2 for the purposes of enforcing the requirements of this section.

3 (2) Confidential information obtained from the Department of
4 Motor Vehicles for the administration or enforcement of this
5 section shall be held confidential and shall not be used for any
6 other purpose.

7 (3) Except for court records described in Section 68152 of the
8 Government Code, the confidential records and information
9 described in paragraphs (1) and (2) may be retained for up to six
10 months from the date the information was first obtained, or until
11 final disposition of the citation, whichever date is later. As soon
12 as feasible, after that time, the information shall be destroyed in a
13 manner that will preserve the confidentiality of the person included
14 in the record or information.

15 (f) The registered owner or an individual identified by the
16 registered owner as the driver of the vehicle at the time of the
17 alleged violation shall be permitted to review the photographic
18 evidence establishing the alleged violation.

19 (g) A contract between a local authority and a manufacturer or
20 supplier of photo enforcement equipment shall allow the local
21 authority to purchase or lease materials and equipment and contract
22 for processing services from a manufacturer or supplier based on
23 either or both the services rendered or on a transactional basis, but
24 only the local authority shall control enforcement activities and
25 only designated peace officers of the local authority may authorize
26 citations for issuance.

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

28 40518. (a) Whenever a written notice to appear has been issued
29 by a peace officer or by a qualified employee of a law enforcement
30 agency on a form approved by the Judicial Council for an alleged
31 violation of Section 22451, or, based on an alleged violation of
32 Section 21453, 21455, or 22101 recorded by an automated traffic
33 enforcement system pursuant to Section 21455.5 or 22451, or,
34 based on an alleged violation of subparagraph (B) of paragraph
35 (2) of subdivision (a) of Section 22352 recorded by an automated
36 speed enforcement system pursuant to Section 22368, and delivered
37 by mail within 15 days of the alleged violation to the current
38 address of the registered owner of the vehicle on file with the
39 department, with a certificate of mailing obtained as evidence of
40 service, an exact and legible duplicate copy of the notice when

1 filed with the magistrate shall constitute a complaint to which the
2 defendant may enter a plea. Preparation and delivery of a notice
3 to appear pursuant to this section is not an arrest.

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

11 SEC. 5. Section 40520 of the Vehicle Code is amended to read:

12 40520. (a) A notice to appear issued pursuant to Section 40518
13 for an alleged violation recorded by an automatic traffic
14 enforcement system or an automated speed enforcement system
15 shall contain, or be accompanied by, an affidavit of nonliability
16 and information as to what constitutes nonliability, information as
17 to the effect of executing the affidavit, and instructions for
18 returning the affidavit to the issuing agency.

19 (b) (1) If a notice to appear is sent to a car rental or leasing
20 company, as the registered owner of the vehicle, the company may
21 return the notice of nonliability pursuant to paragraph (2), if the
22 violation occurred when the vehicle was either leased or rented
23 and operated by a person other than an employee of the rental or
24 leasing company.

25 (2) If the affidavit of nonliability is returned to the issuing
26 agency by the registered owner within 30 days of the mailing of
27 the notice to appear together with the proof of a written rental
28 agreement or lease between a bona fide renting or leasing company
29 and its customer and that agreement identifies the renter or lessee
30 and provides the driver's license number, name, and address of
31 the renter or lessee, the agency shall cancel the notice for the
32 registered owner to appear and shall, instead, issue a notice to
33 appear to the renter or lessee identified in the affidavit of
34 nonliability.

35 (c) Nothing in this section precludes an issuing agency from
36 establishing a procedure whereby registered owners, other than
37 bona fide renting and leasing companies, may execute an affidavit
38 of nonliability if the registered owner identifies the person who
39 was the driver of the vehicle at the time of the alleged violation

1 ~~and whereby the issuing agency issues a notice to appear to that~~
2 ~~person.~~

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