

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2147

Introduced by Assembly Member Cedillo

February 23, 2012

~~An act to amend Section 21455.5 of the Vehicle Code, relating to vehicles.~~ *An act to amend Sections 210, 21362.5, 22451, and 42001.16 of the Vehicle Code, relating to vehicles.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2147, as amended, Cedillo. ~~Vehicles: automated traffic enforcement system.~~ *Vehicles: automated rail enforcement systems: fixed guideway crossings.*

(1) Existing law authorizes railroad and rail transit grade crossings to be equipped with an automated rail crossing enforcement system if the system is identified by signs clearly indicating the system's presence and visible to traffic approaching from each direction. Existing law requires that only a governmental agency, in cooperation with a law enforcement agency, may operate an automated rail crossing enforcement system.

Existing law requires the driver of any vehicle or a pedestrian approaching a railroad or rail transit grade crossing to stop not less than 15 feet from the nearest rail and to not proceed until he or she can do so safely, whenever either of 2 specified conditions exist and also requires a driver or pedestrian to not proceed through, around, or under any railroad or rail transit crossing gate while the gate is closed. Existing law requires that a notice of a violation of these provisions is subject to the specified procedures for the issuance of a notice to appear.

This bill would revise and recast these provisions to apply to railroad and fixed guideway crossings. The bill would add specific procedures for the processing of a notice of violation based upon evidence from an automated rail or fixed guideway enforcement system in lieu of the existing procedures for the issuance of a notice to appear. The bill would also add specific requirements for a driver or pedestrian when making a stop at a railroad or fixed guideway crossing. By expanding the definition of an existing crime, the bill would impose a state-mandated local program.

The bill would require that a person convicted of any violation described in these provisions not be permitted to attend traffic violator school for more than one violation at a time, and would require the course curriculum to include specific training on the dangers of operating a vehicle near or through a railroad or fixed guideway crossing. The bill would make other conforming and technical changes to these provisions.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law authorizes the limit line, intersection, or other places where a driver is required to stop to be equipped with an automated traffic enforcement system, as defined, if the system meets certain requirements. Existing law authorizes a governmental agency to contract out the operation of the system under certain circumstances, except for specified activities, that include, among other things, establishing guidelines for selection of location. A violation of the Vehicle Code is a crime.~~

~~This bill would make technical, nonsubstantive changes to those provisions:~~

~~Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.~~

The people of the State of California do enact as follows:

1 SECTION 1. Section 210 of the Vehicle Code is amended to
2 read:

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

8 *SEC. 2. Section 21362.5 of the Vehicle Code is amended to*
9 *read:*

10 21362.5. (a) ~~Railroad and rail transit grade fixed guideway~~
11 ~~crossings may be equipped with an automated rail or fixed~~
12 ~~guideway crossing enforcement system that photographically~~
13 ~~records the presence of a vehicle that enters into a gated or~~
14 ~~ungated crossing, if the system is identified by signs clearly~~
15 ~~indicating the system’s presence and visible to traffic approaching~~
16 ~~from each direction.~~

17 ~~Only a governmental agency, in cooperation with a law~~
18 ~~enforcement agency, may operate an automated rail crossing~~
19 ~~enforcement system.~~

20 *(b) Only a governmental agency, in cooperation with a law*
21 *enforcement agency, may operate an automated rail or fixed*
22 *guideway crossing enforcement system and issue notices of*
23 *violations captured by an automated rail or fixed guideway*
24 *crossing system.*

25 *(1) A written notice of a violation shall be mailed by a peace*
26 *officer or qualified employee of a law enforcement agency pursuant*
27 *to Section 22 on a form approved by the Judicial Council within*
28 *15 days of the alleged violation to the current address of the*
29 *registered owner of the vehicle on file with the department. The*
30 *notice shall constitute a valid written notice to appear and shall*
31 *give the court direct jurisdiction over the registered owner of the*
32 *vehicle.*

33 *(2) The notice of violation shall contain the name and address*
34 *of the registered owner, the license plate number of the vehicle,*
35 *the violation charged, including a description of the offense, the*
36 *photographic evidence captured by the automated rail or fixed*
37 *guideway enforcement system, and the time and place where the*
38 *registered owner may appear in court or before a person*
39 *authorized to receive a deposit of bail. The time specified shall be*
40 *at least 10 days after the notice of violation is delivered.*

1 (3) Upon receipt of the notice of violation, the registered owner
2 of the vehicle may submit to the law enforcement agency evidence
3 that someone other than the registered owner was operating the
4 vehicle at the time of the violation. If the law enforcement agency
5 can positively identify the driver prior to the noticed hearing date,
6 the law enforcement agency shall rescind the notice of violation
7 as to the registered owner and reissue the notice to the person who
8 was actually operating the vehicle at the time of the offense.

9 (4) If the registered owner does not identify the driver of the
10 vehicle as authorized pursuant to paragraph (3), the registered
11 owner shall do one of the following:

12 (A) Pay the fine for the violation in person or by mail as
13 specified in the notice of the violation.

14 (B) Submit, by mail, written proof that the vehicle pictured in
15 the notice of violation had been sold and title transferred to another
16 person by the registered owner prior to the date of the violation.

17 (C) Submit, by mail, written proof that the vehicle pictured in
18 the notice of violation had been reported as stolen prior to or at
19 the time of the date of the violation.

20 (D) Appear in court on the date specified in the notice of
21 violation to enter a plea.

22 (5) If a law enforcement agency does not notify a registered
23 owner that the notice of violation is rescinded pursuant to
24 paragraph (3) prior to the noticed hearing date, the failure by the
25 registered owner to do any of the actions listed in paragraph (4)
26 shall result in the court issuing a bench warrant to compel the
27 registered owner's appearance in court.

28 (6) Preparation and delivery of a notice to appear pursuant to
29 this section is not an arrest.

30 ~~(b)~~

31 (c) Notwithstanding Section 6253 of the Government Code, or
32 any other ~~provision~~ of law, photographic records made by an
33 automated rail or fixed guideway crossing enforcement system
34 shall be confidential, and shall be made available only to
35 governmental agencies and law enforcement agencies for the
36 purposes of this section.

37 (d) Notwithstanding subdivision (c), the registered owner of the
38 vehicle or the driver at the time of the alleged violation shall be
39 permitted to review the photographic evidence of the alleged
40 violation.

1 (e) A driver convicted of an infraction for a violation of this
2 code based upon evidence from an automated rail or fixed
3 guideway enforcement system as authorized under subdivision (a),
4 shall be punished as set forth in Section 42001.16.

5 (f) Upon a conviction for a violation described in subdivision
6 (e), the clerk of the court in which the conviction was adjudicated
7 shall prepare an abstract of the conviction pursuant to Section
8 1803, 1803.5 or 1804.

9 (g) The department shall refuse registration, renewal, or transfer
10 of registration of a vehicle if the department determines that the
11 registered owner of the vehicle has outstanding unpaid fines
12 imposed pursuant to Section 42001.16.

13 SEC. 3. Section 22451 of the Vehicle Code is amended to read:

14 22451. (a) The driver of ~~any~~ a vehicle or pedestrian
15 approaching a railroad or ~~rail transit grade~~ fixed guideway crossing
16 shall stop not less than 15 feet from the nearest rail and shall not
17 proceed until he or she can do so safely, ~~whenever~~ if either of the
18 following conditions exist:

19 (1) A clearly visible electric or mechanical signal device or a
20 flagman gives warning of the approach or passage of a train, bus,
21 or car.

22 (2) An approaching train, bus, or car is plainly visible or is
23 emitting an audible signal and, by reason of its speed or nearness,
24 is an immediate hazard.

25 (b) When making a stop pursuant to subdivision (a), the driver
26 shall stop at either of the following locations:

27 (1) When approaching a railroad or fixed guideway crossing
28 that utilizes rail, at least 15 feet from the nearest rail.

29 (2) When approaching a fixed guideway crossing that does not
30 utilize rail, at the marked limit line, or if none, before entering the
31 crosswalk on the near side of the intersection, or if none, before
32 entering the intersection.

33 ~~(b) No~~

34 (c) A driver or pedestrian shall not proceed through, around, or
35 under any railroad or ~~rail transit~~ fixed guideway crossing gate while
36 the gate is closed.

37 ~~(e) Whenever~~

38 (d) When a railroad or ~~rail transit~~ fixed guideway crossing is
39 equipped with an automated enforcement system, a notice of a

1 violation of this section is subject to the procedures provided in
2 Section ~~40518~~ 21362.5.

3 *SEC. 4. Section 42001.16 of the Vehicle Code is amended to*
4 *read:*

5 42001.16. (a) ~~Every~~ A person convicted of an infraction for a
6 violation of subdivision (c) of Section 21752, subdivision (c) of
7 Section 22526, or Section 22450, involving railroad ~~grade or fixed~~
8 *guideway* crossings, or Section 22451 or 22452 shall be punished
9 as follows:

10 (1) For the first infraction, by a fine of one hundred dollars
11 (\$100).

12 (2) For a second infraction of any of the offenses described in
13 this subdivision occurring within one year of a prior infraction that
14 resulted in a conviction, by a fine not exceeding two hundred
15 dollars (\$200).

16 (3) For a third or any subsequent infraction of any of the offenses
17 described in this subdivision occurring within one year of two or
18 more prior infractions that resulted in convictions, by a fine not
19 exceeding two hundred fifty dollars (\$250).

20 (b) In addition to the fine imposed pursuant to subdivision (a),
21 a court, in a county in which Section 369b of the Penal Code
22 applies, may require the person to attend a traffic school as
23 described in Section 369b of the Penal Code.

24 (c) *A person convicted of any violation described in subdivision*
25 *(a) shall not be permitted to attend traffic violator school for more*
26 *than one violation at a time, and the course curriculum shall*
27 *include specific training on the dangers of operating a vehicle*
28 *near or through a railroad or fixed guideway crossing.*

29 *SEC. 5. No reimbursement is required by this act pursuant to*
30 *Section 6 of Article XIII B of the California Constitution because*
31 *the only costs that may be incurred by a local agency or school*
32 *district will be incurred because this act creates a new crime or*
33 *infraction, eliminates a crime or infraction, or changes the penalty*
34 *for a crime or infraction, within the meaning of Section 17556 of*
35 *the Government Code, or changes the definition of a crime within*
36 *the meaning of Section 6 of Article XIII B of the California*
37 *Constitution.*

38 ~~SECTION 1. Section 21455.5 of the Vehicle Code is amended~~
39 ~~to read:~~

1 ~~21455.5. (a) The limit line, the intersection, or a place~~
2 ~~designated in Section 21455, where a driver is required to stop,~~
3 ~~may be equipped with an automated traffic enforcement system if~~
4 ~~the governmental agency using the system meets all of the~~
5 ~~following requirements:~~

6 ~~(1) Identifies the system by signs that clearly indicate the~~
7 ~~system's presence and are visible to traffic approaching from all~~
8 ~~directions, or posts signs at all major entrances to the city,~~
9 ~~including, at a minimum, freeways, bridges, and state highway~~
10 ~~routes.~~

11 ~~(2) If it locates the system at an intersection, and ensures that~~
12 ~~the system meets the criteria specified in Section 21455.7.~~

13 ~~(b) Before issuing citations under this section, a local jurisdiction~~
14 ~~using an automated traffic enforcement system shall commence a~~
15 ~~program to issue only warning notices for 30 days. The local~~
16 ~~jurisdiction shall also make a public announcement of the~~
17 ~~automated traffic enforcement system at least 30 days before the~~
18 ~~commencement of the enforcement program.~~

19 ~~(c) Only a governmental agency, in cooperation with a law~~
20 ~~enforcement agency, may operate an automated traffic enforcement~~
21 ~~system. As used in this subdivision, "operate" includes all of the~~
22 ~~following activities:~~

23 ~~(1) Developing uniform guidelines for screening and issuing~~
24 ~~violations and for the processing and storage of confidential~~
25 ~~information, and establishing procedures to ensure compliance~~
26 ~~with those guidelines.~~

27 ~~(2) Performing administrative functions and day-to-day~~
28 ~~functions, including, but not limited to, all of the following:~~

29 ~~(A) Establishing guidelines for selection of location.~~

30 ~~(B) Ensuring that the equipment is regularly inspected.~~

31 ~~(C) Certifying that the equipment is properly installed and~~
32 ~~calibrated, and is operating properly.~~

33 ~~(D) Regularly inspecting and maintaining warning signs placed~~
34 ~~under paragraph (1) of subdivision (a).~~

35 ~~(E) Overseeing the establishment or change of signal phases~~
36 ~~and the timing thereof.~~

37 ~~(F) Maintaining controls necessary to assure that only those~~
38 ~~citations that have been reviewed and approved by law enforcement~~
39 ~~are delivered to violators.~~

1 ~~(d) The activities listed in subdivision (c) that relate to the~~
2 ~~operation of the system may be contracted out by the governmental~~
3 ~~agency, if it maintains overall control and supervision of the~~
4 ~~system. However, the activities listed in paragraph (1) of, and~~
5 ~~subparagraphs (A), (D), (E), and (F) of paragraph (2) of,~~
6 ~~subdivision (c) may not be contracted out to the manufacturer or~~
7 ~~supplier of the automated traffic enforcement system.~~

8 ~~(e) (1) Notwithstanding Section 6253 of the Government Code,~~
9 ~~or any other law, photographic records made by an automated~~
10 ~~traffic enforcement system shall be confidential, and shall be made~~
11 ~~available only to governmental agencies and law enforcement~~
12 ~~agencies and only for the purposes of this article.~~

13 ~~(2) Confidential information obtained from the Department of~~
14 ~~Motor Vehicles for the administration or enforcement of this article~~
15 ~~shall be held confidential, and may not be used for any other~~
16 ~~purpose.~~

17 ~~(3) Except for court records described in Section 68152 of the~~
18 ~~Government Code, the confidential records and information~~
19 ~~described in paragraphs (1) and (2) may be retained for up to six~~
20 ~~months from the date the information was first obtained, or until~~
21 ~~final disposition of the citation, whichever date is later, after which~~
22 ~~time the information shall be destroyed in a manner that will~~
23 ~~preserve the confidentiality of any person included in the record~~
24 ~~or information.~~

25 ~~(f) Notwithstanding subdivision (e), the registered owner or an~~
26 ~~individual identified by the registered owner as the driver of the~~
27 ~~vehicle at the time of the alleged violation shall be permitted to~~
28 ~~review the photographic evidence of the alleged violation.~~

29 ~~(g) (1) A contract between a governmental agency and a~~
30 ~~manufacturer or supplier of automated traffic enforcement~~
31 ~~equipment may not include provision for the payment or~~
32 ~~compensation to the manufacturer or supplier based on the number~~
33 ~~of citations generated, or as a percentage of the revenue generated,~~
34 ~~as a result of the use of the equipment authorized under this section.~~

35 ~~(2) Paragraph (1) does not apply to a contract that was entered~~
36 ~~into by a governmental agency and a manufacturer or supplier of~~
37 ~~automated traffic enforcement equipment before January 1, 2004,~~

- 1 ~~unless that contract is renewed, extended, or amended on or after~~
- 2 ~~January 1, 2004.~~

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