

**Introduced by Senator Simitian**December 6, 2010

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An act to amend Sections 21455.5 and 40518 of the Vehicle Code, relating to vehicles.

## LEGISLATIVE COUNSEL'S DIGEST

SB 29, as introduced, Simitian. Vehicles: automated traffic enforcement systems.

(1) Existing law authorizes the limit line, intersection, or other places where a driver is required to stop to be equipped with an automated 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 require that, no later than January 1, 2013, those requirements include identifying the system by signs posted within 200 feet of an intersection where a system is operating. The bill would require, by January 1, 2013, the governmental agency that operates an automated traffic enforcement system to develop uniform guidelines for specified purposes and to establish procedures to ensure compliance with those guidelines. The bill would require the governmental agency to adopt a finding of fact establishing the need for the system at a specific location for reasons related to safety for those systems installed after January 1, 2012.

The bill would prohibit a governmental agency that proposes to install or operate an automated traffic enforcement system from considering revenue generation, beyond recovering its actual costs of operating the

system, as a factor when considering whether or not to install or operate a system within its local jurisdiction. The bill would require the manufacturer or supplier that operates an automated traffic enforcement system, in cooperation with the governmental agency, to submit an annual report to the Judicial Council that includes specified information.

(2) Existing law provides special written, mailed notice to appear procedures in connection with certain alleged violations recorded by an automated traffic enforcement system and provides that whenever a written notice to appear has been issued by a peace officer or by a qualified employee of a law enforcement agency on a form approved by the Judicial Council for an alleged traffic violation recorded by an automated traffic enforcement system, and delivered by mail within 15 days of the alleged violation to the current address of the registered owner of the vehicle on file with the Department of Motor Vehicles, with a certificate of mailing obtained as evidence of service, an exact and legible duplicate copy of the notice when filed with the magistrate constitutes a complaint to which the defendant may enter a plea.

This bill would expand the information that must be included on a notice to appear. The bill would authorize the mailing of a specified courtesy notice or any other notice other than a notice to appear by the issuing agency to the registered owner or the alleged violator prior to issuing a notice to appear. The bill would require that this notice contain specified information and, beginning January 1, 2013, be on a form approved by the Judicial Council, following consultation with the traffic and transportation committee of the California Peace Officers' Association. The bill would prohibit a manufacturer or supplier of an automated traffic enforcement system or the governmental agency operating the system from altering the notice to appear or any other form approved by the Judicial Council. If a form is found to have been materially altered, the bill would authorize that the citation, based on the altered form, be dismissed. The bill would also require that the citation be dismissed if a magistrate or judge makes a finding that there are grounds for dismissal, in certain circumstances.

(3) Because it is unlawful and constitutes an infraction for any person to violate, or fail to comply with any provision of the Vehicle Code, this bill would impose a state-mandated local program by creating a new crime.

(4) 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.

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

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

1 SECTION 1. Section 21455.5 of the Vehicle Code is amended  
2 to read:

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

8 (1) ~~Identifies~~*No later than January 1, 2013, identifies* the  
9 system by signs *posted within 200 feet of an intersection where a*  
10 *system is operating* that clearly indicate the system’s presence and  
11 are visible to traffic approaching from all ~~directions, or posts signs~~  
12 ~~at all major entrances to the city, including, at a minimum,~~  
13 ~~freeways, bridges, and state highway routes.~~ *directions in which*  
14 *the automated traffic enforcement system is being utilized to issue*  
15 *citations. A governmental agency utilizing such a system does not*  
16 *need to post signs visible to traffic approaching the intersection*  
17 *from directions not subject to an automated traffic enforcement*  
18 *system.*

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

21 (b) Prior to issuing citations under this section, a local  
22 jurisdiction utilizing an automated traffic enforcement system shall  
23 commence a program to issue only warning notices for 30 days.  
24 The local jurisdiction shall also make a public announcement of  
25 the automated traffic enforcement system at least 30 days prior to  
26 the commencement of the enforcement program.

27 (c) Only a governmental agency, in cooperation with a law  
28 enforcement agency, may operate an automated ~~enforcement~~  
29 ~~system. As used in this subdivision, “operate” includes traffic~~  
30 *enforcement system. A governmental agency that operates an*  
31 *automated traffic enforcement system shall do all of the following*  
32 ~~activities:~~ *following:*

1     (1) ~~Developing~~ *By January 1, 2013, develop* uniform guidelines  
2 for screening and issuing violations and for the processing and  
3 storage of confidential information, and ~~establishing~~ *establish*  
4 procedures to ensure compliance with those guidelines.

5     (2) ~~Performing~~ *Perform* administrative functions and day-to-day  
6 functions, including, but not limited to, all of the following:

7     (A) Establishing guidelines for selection of location. *Prior to*  
8 *installing an automated traffic enforcement system after January*  
9 *1, 2012, the governmental agency shall make and adopt a finding*  
10 *of fact establishing that the system is needed at a specific location*  
11 *for reasons related to safety.*

12     (B) Ensuring that the equipment is regularly inspected.

13     (C) Certifying that the equipment is properly installed and  
14 calibrated, and is operating properly.

15     (D) Regularly inspecting and maintaining warning signs placed  
16 under paragraph (1) of subdivision (a).

17     (E) Overseeing the establishment or change of signal phases  
18 and the timing thereof.

19     (F) Maintaining controls necessary to ~~assure~~ *ensure* that only  
20 those citations that have been reviewed and approved by law  
21 enforcement are delivered to violators.

22     (d) The activities listed in subdivision (c) that relate to the  
23 operation of the system may be contracted out by the governmental  
24 agency, if it maintains overall control and supervision of the  
25 system. However, the activities listed in paragraph (1) of, and  
26 subparagraphs (A), (D), (E), and (F) of paragraph (2) of,  
27 subdivision (c) ~~may~~ *shall* not be contracted out to the manufacturer  
28 or supplier of the automated *traffic* enforcement system.

29     (e) (1) Notwithstanding Section 6253 of the Government Code,  
30 or any other ~~provision of~~ law, photographic records made by an  
31 automated *traffic* enforcement system shall be confidential, and  
32 shall be made available only to governmental agencies and law  
33 enforcement agencies and only for the purposes of this article.

34     (2) Confidential information obtained from the Department of  
35 Motor Vehicles for the administration or enforcement of this article  
36 shall be held confidential, and ~~may~~ *shall* not be used for any other  
37 purpose.

38     (3) Except for court records described in Section 68152 of the  
39 Government Code, the confidential records and information  
40 described in paragraphs (1) and (2) may be retained for up to six

1 months from the date the information was first obtained, or until  
2 final disposition of the citation, whichever date is later, after which  
3 time the information shall be destroyed in a manner that will  
4 preserve the confidentiality of any person included in the record  
5 or information.

6 (f) Notwithstanding subdivision ~~(d)~~ (e), the registered owner or  
7 any individual identified by the registered owner as the driver of  
8 the vehicle at the time of the alleged violation shall be permitted  
9 to review the photographic evidence of the alleged violation.

10 (g) (1) A contract between a governmental agency and a  
11 manufacturer or supplier of automated *traffic* enforcement  
12 equipment ~~may~~ *shall* not include provision for the payment or  
13 compensation to the manufacturer or supplier based on the number  
14 of citations generated, or as a percentage of the revenue generated,  
15 as a result of the use of the equipment authorized under this section.

16 (2) Paragraph (1) does not apply to a contract that was entered  
17 into by a governmental agency and a manufacturer or supplier of  
18 automated *traffic* enforcement equipment before January 1, 2004,  
19 unless that contract is renewed, extended, or amended on or after  
20 January 1, 2004.

21 (3) *A governmental agency that proposes to install or operate*  
22 *an automated traffic enforcement system shall not consider revenue*  
23 *generation, beyond recovering its actual costs of operating the*  
24 *system, as a factor when considering whether or not to install or*  
25 *operate a system within its local jurisdiction.*

26 (h) *A manufacturer or supplier that operates an automated*  
27 *traffic enforcement system pursuant to this section shall, in*  
28 *cooperation with the governmental agency, submit an annual*  
29 *report to the Judicial Council that includes, but is not limited to,*  
30 *all of the following information if this information is in the*  
31 *possession of, or readily available to, the manufacturer or supplier:*

32 (1) *The number of alleged violations captured by the systems*  
33 *they operate.*

34 (2) *The number of citations issued by a law enforcement agency*  
35 *based on information collected from the automated traffic*  
36 *enforcement system.*

37 (3) *For the citations identified in paragraph (2), the number of*  
38 *vehicles that traveled straight through the intersection, turned*  
39 *right, and turned left.*

40 (4) *The number and percentage of citations that are paid in full.*

1 (5) *The number of traffic collisions at each intersection that*  
2 *have occurred prior to, and after the installation of, the automated*  
3 *traffic enforcement system.*

4 SEC. 2. Section 40518 of the Vehicle Code is amended to read:

5 40518. (a) Whenever a written notice to appear has been issued  
6 by a peace officer or by a qualified employee of a law enforcement  
7 agency on a form approved by the Judicial Council for an alleged  
8 violation of Section 22451, or, based on an alleged violation of  
9 Section 21453, 21455, or 22101 recorded by an automated *traffic*  
10 enforcement system pursuant to Section 21455.5 or 22451, and  
11 delivered by mail within 15 days of the alleged violation to the  
12 current address of the registered owner of the vehicle on file with  
13 the department, with a certificate of mailing obtained as evidence  
14 of service, an exact and legible duplicate copy of the notice when  
15 filed with the magistrate shall constitute a complaint to which the  
16 defendant may enter a plea. Preparation and delivery of a notice  
17 to appear pursuant to this section is not an arrest.

18 (b) (1) A notice to appear shall contain the name and address  
19 of the person, the license plate number of the person's vehicle, the  
20 violation charged, including a description of the offense, and the  
21 time and place when, and where, the person may appear in court  
22 or before a person authorized to receive a deposit of bail. The time  
23 specified shall be at least 10 days after the notice to appear is  
24 delivered. *If, after the notice to appear has been issued, the citing*  
25 *peace officer or qualified employee of a law enforcement agency*  
26 *determines that, in the interest of justice, the citation or notice*  
27 *should be dismissed, the citing agency may recommend, in writing,*  
28 *to the magistrate or the judge that the case be dismissed. The*  
29 *recommendation shall cite the reasons for the recommendation*  
30 *and be filed with the court. If the magistrate or judge makes a*  
31 *finding that there are grounds for dismissal, the finding shall be*  
32 *entered on the record and the infraction dismissed.*

33 (2) A notice to appear shall also contain all of the following  
34 information:

35 (A) *The methods by which the registered owner of the vehicle*  
36 *or the alleged violator may view and discuss with the issuing*  
37 *agency, both by telephone and in person, the evidence used to*  
38 *substantiate the violation.*

39 (B) *The contact information of the issuing agency.*

1 (C) Information provided by the manufacturer or supplier of  
2 the automated traffic enforcement system or the governmental  
3 agency with which it contracts that clearly and conspicuously  
4 identifies the manufacturer or supplier of the system.

5 (c) This section and Section 40520 do not preclude the issuing  
6 agency from mailing a courtesy notice or any other notice other  
7 than a notice to appear to the registered owner of the vehicle or  
8 the alleged violator prior to issuing a notice to appear. The  
9 courtesy notice or other notice other than a notice to appear shall  
10 be, beginning January 1, 2013, on a form approved by the Judicial  
11 Council, following consultation with the traffic and transportation  
12 committee of the California Peace Officers' Association, and shall  
13 contain all of the following information:

14 (1) The methods by which the registered owner of the vehicle  
15 or the alleged violator may view and discuss with the issuing  
16 agency, both by telephone and in person, the evidence used to  
17 substantiate the violation.

18 (2) The contact information of the issuing agency.

19 (3) Information provided by the manufacturer or supplier of the  
20 automated traffic enforcement system or the governmental agency  
21 with which it contracts that clearly and conspicuously identifies  
22 the manufacturer or supplier of the system.

23 (d) A manufacturer or supplier of an automated traffic  
24 enforcement system or the governmental agency operating the  
25 system shall not alter the notice to appear or any other form  
26 approved by the Judicial Council. If a form is found to have been  
27 materially altered, the citation based on the altered form may be  
28 dismissed.

29 (e) If an employee, agent, or representative of the governmental  
30 agency or law enforcement agency contacts the registered owner  
31 of a vehicle prior to issuing a notice to appear in an effort to  
32 determine the identity of the driver, the registered owner shall be  
33 made aware, in a clear and prominent fashion, that the registered  
34 owner is not required to provide the information and that failure  
35 to provide the information will not result in additional  
36 responsibility or liability associated with the alleged violation.

37 SEC. 3. No reimbursement is required by this act pursuant to  
38 Section 6 of Article XIII B of the California Constitution because  
39 the only costs that may be incurred by a local agency or school  
40 district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the penalty  
2 for a crime or infraction, within the meaning of Section 17556 of  
3 the Government Code, or changes the definition of a crime within  
4 the meaning of Section 6 of Article XIII B of the California  
5 Constitution.

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