

Introduced by Senator Simitian

December 6, 2010

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

LEGISLATIVE COUNSEL'S DIGEST

SB 29, as amended, 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 that automated traffic enforcement systems installed as of January 1, 2012, be identified no later than January 1, 2013.* 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, for systems installed as of January 1, 2012, that a governmental agency that operates an automated traffic enforcement system establish those*

guidelines by January 1, 2013. 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, *manufacturer, or supplier of the automated traffic enforcement system* 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) ~~No later than January 1, 2013, identifies~~ *Identifies* the system
9 by signs posted within 200 feet of an intersection where a system
10 is operating that clearly indicate the system’s presence and are
11 visible to traffic approaching from all directions in which the
12 automated traffic enforcement system is being utilized to issue
13 citations. A governmental agency utilizing such a system does not
14 need to post signs visible to traffic approaching the intersection
15 from directions not subject to ~~an~~ *the* automated traffic enforcement
16 system. *Automated traffic enforcement systems installed as of*
17 *January 1, 2012, shall be identified no later than January 1, 2013.*

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

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

1 the automated traffic enforcement system at least 30 days prior to
2 the commencement of the enforcement program.

3 (c) Only a governmental agency, in cooperation with a law
4 enforcement agency, may operate an automated traffic enforcement
5 system. A governmental agency that operates an automated traffic
6 enforcement system shall do all of the following:

7 (1) ~~By January 1, 2013, develop~~ *Develop* uniform guidelines
8 for screening and issuing violations and for the processing and
9 storage of confidential information, and establish procedures to
10 ensure compliance with those guidelines. *For systems installed as*
11 *of January 1, 2012, a governmental agency that operates an*
12 *automated traffic enforcement system shall establish those*
13 *guidelines by January 1, 2013.*

14 (2) Perform administrative functions and day-to-day functions,
15 including, but not limited to, all of the following:

16 (A) Establishing guidelines for selection of location. Prior to
17 installing an automated traffic enforcement system after January
18 1, 2012, the governmental agency shall make and adopt a finding
19 of fact establishing that the system is needed at a specific location
20 for reasons related to safety.

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

22 (C) Certifying that the equipment is properly installed and
23 calibrated, and is operating properly.

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

26 (E) Overseeing the establishment or change of signal phases
27 and the timing thereof.

28 (F) Maintaining controls necessary to ensure that only those
29 citations that have been reviewed and approved by law enforcement
30 are delivered to violators.

31 (d) The activities listed in subdivision (c) that relate to the
32 operation of the system may be contracted out by the governmental
33 agency, if it maintains overall control and supervision of the
34 system. However, the activities listed in paragraph (1) of, and
35 subparagraphs (A), (D), (E), and (F) of paragraph (2) of,
36 subdivision (c) shall not be contracted out to the manufacturer or
37 supplier of the automated traffic enforcement system.

38 (e) (1) Notwithstanding Section 6253 of the Government Code,
39 or any other law, photographic records made by an automated
40 traffic enforcement system shall be confidential, and shall be made

1 available only to governmental agencies and law enforcement
2 agencies and only for the purposes of this article.

3 (2) Confidential information obtained from the Department of
4 Motor Vehicles for the administration or enforcement of this article
5 shall be held confidential, and shall not be used for any other
6 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, after which
12 time the information shall be destroyed in a manner that will
13 preserve the confidentiality of any person included in the record
14 or information.

15 (f) Notwithstanding subdivision (e), the registered owner or any
16 individual identified by the registered owner as the driver of the
17 vehicle at the time of the alleged violation shall be permitted to
18 review the photographic evidence of the alleged violation.

19 (g) (1) A contract between a governmental agency and a
20 manufacturer or supplier of automated traffic enforcement
21 equipment shall not include provision for the payment or
22 compensation to the manufacturer or supplier based on the number
23 of citations generated, or as a percentage of the revenue generated,
24 as a result of the use of the equipment authorized under this section.

25 (2) Paragraph (1) does not apply to a contract that was entered
26 into by a governmental agency and a manufacturer or supplier of
27 automated traffic enforcement equipment before January 1, 2004,
28 unless that contract is renewed, extended, or amended on or after
29 January 1, 2004.

30 (3) A governmental agency that proposes to install or operate
31 an automated traffic enforcement system shall not consider revenue
32 generation, beyond recovering its actual costs of operating the
33 system, as a factor when considering whether or not to install or
34 operate a system within its local jurisdiction.

35 (h) A manufacturer or supplier that operates an automated traffic
36 enforcement system pursuant to this section shall, in cooperation
37 with the governmental agency, submit an annual report to the
38 Judicial Council that includes, but is not limited to, all of the
39 following information if this information is in the possession of,
40 or readily available to, the manufacturer or supplier:

1 (1) The number of alleged violations captured by the systems
2 they operate.

3 (2) The number of citations issued by a law enforcement agency
4 based on information collected from the automated traffic
5 enforcement system.

6 ~~(3) For the citations identified in paragraph (2), the number of~~
7 ~~vehicles that traveled straight through the intersection, turned right,~~
8 ~~and turned left.~~

9 *(3) For citations identified in paragraph (2), the number of*
10 *violations that involved traveling straight through the intersection,*
11 *turning right, and turning left.*

12 (4) The number and percentage of citations that are ~~paid in full~~
13 *dismissed by the court.*

14 (5) The number of traffic collisions at each intersection that
15 have occurred prior to, and after the installation of, the automated
16 traffic enforcement system.

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

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

31 (b) (1) A notice to appear shall contain the name and address
32 of the person, the license plate number of the person's vehicle, the
33 violation charged, including a description of the offense, and the
34 time and place when, and where, the person may appear in court
35 or before a person authorized to receive a deposit of bail. The time
36 specified shall be at least 10 days after the notice to appear is
37 delivered. If, after the notice to appear has been issued, the citing
38 peace officer or qualified employee of a law enforcement agency
39 determines that, in the interest of justice, the citation or notice
40 should be dismissed, the citing agency may recommend, in writing,

1 to the magistrate or the judge that the case be dismissed. The
2 recommendation shall cite the reasons for the recommendation
3 and be filed with the court. If the magistrate or judge makes a
4 finding that there are grounds for dismissal, the finding shall be
5 entered on the record and the infraction dismissed.

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

8 (A) The methods by which the registered owner of the vehicle
9 or the alleged violator may view and discuss with the issuing
10 agency, both by telephone and in person, the evidence used to
11 substantiate the violation.

12 (B) The contact information of the issuing agency.

13 (C) Information provided by the manufacturer or supplier of
14 the automated traffic enforcement system or the governmental
15 agency with which it contracts that clearly and conspicuously
16 identifies the manufacturer or supplier of the system.

17 (c) This section and Section 40520 do not preclude the issuing
18 agency, *manufacturer, or supplier of the automated traffic*
19 *enforcement system* from mailing a courtesy notice or any other
20 notice other than a notice to appear to the registered owner of the
21 vehicle or the alleged violator prior to issuing a notice to appear.
22 The courtesy notice or other notice other than a notice to appear
23 shall be, beginning January 1, 2013, on a form approved by the
24 Judicial Council, following consultation with the traffic and
25 transportation committee of the California Peace Officers'
26 Association, and shall contain all of the following information:

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

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

32 (3) Information provided by the manufacturer or supplier of the
33 automated traffic enforcement system or the governmental agency
34 with which it contracts that clearly and conspicuously identifies
35 the manufacturer or supplier of the system.

36 (d) A manufacturer or supplier of an automated traffic
37 enforcement system or the governmental agency operating the
38 system shall not alter the notice to appear or any other form
39 approved by the Judicial Council. If a form is found to have been

1 materially altered, the citation based on the altered form may be
2 dismissed.

3 (e) ~~If an employee, agent, or representative of the governmental~~
4 ~~agency or law enforcement agency~~ *the issuing agency or the*
5 *manufacturer or supplier of the automated traffic enforcement*
6 *system* contacts the registered owner of a vehicle prior to issuing
7 a notice to appear in an effort to determine the identity of the driver,
8 the registered owner shall be made aware, in a clear and prominent
9 fashion, that the registered owner is not required to provide the
10 information and that failure to provide the information will not
11 result in additional responsibility or liability associated with the
12 alleged violation.

13 SEC. 3. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.