

AMENDED IN ASSEMBLY AUGUST 26, 2011

AMENDED IN SENATE MAY 11, 2011

AMENDED IN SENATE APRIL 5, 2011

AMENDED IN SENATE MARCH 22, 2011

**SENATE BILL**

**No. 29**

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**Introduced by Senators Simitian and Huff**  
*(Coauthor: Senator Anderson)*

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 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 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 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) Identifies the system by signs posted within 200 feet of an  
9 intersection where a system is operating that clearly indicate the  
10 system's presence and are visible to traffic approaching from all  
11 directions in which the automated traffic enforcement system is  
12 being utilized to issue citations. A governmental agency utilizing  
13 such a system does not need to post signs visible to traffic  
14 approaching the intersection from directions not subject to the  
15 automated traffic enforcement system. Automated traffic  
16 enforcement systems installed as of January 1, 2012, shall be  
17 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

1 commence a program to issue only warning notices for 30 days.  
2 The local jurisdiction shall also make a public announcement of  
3 the automated traffic enforcement system at least 30 days prior to  
4 the commencement of the enforcement program.

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

9 (1) Develop uniform guidelines for screening and issuing  
10 violations and for the processing and storage of confidential  
11 information, and establish procedures to ensure compliance with  
12 those guidelines. For systems installed as of January 1, 2012, a  
13 governmental agency that operates an automated traffic  
14 enforcement system shall establish those guidelines by January 1,  
15 2013.

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

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

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

24 (C) Certifying that the equipment is properly installed and  
25 calibrated, and is operating properly.

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

28 (E) Overseeing the establishment or change of signal phases  
29 and the timing thereof.

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

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

1 (e) (1) Notwithstanding Section 6253 of the Government Code,  
2 or any other law, photographic records made by an automated  
3 traffic enforcement system shall be confidential, and shall be made  
4 available only to governmental agencies and law enforcement  
5 agencies and only for the purposes of this article.

6 (2) Confidential information obtained from the Department of  
7 Motor Vehicles for the administration or enforcement of this article  
8 shall be held confidential, and shall not be used for any other  
9 purpose.

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

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

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

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

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

38 (h) A manufacturer or supplier that operates an automated traffic  
39 enforcement system pursuant to this section shall, in cooperation  
40 with the governmental agency, submit an annual report to the

1 Judicial Council that includes, but is not limited to, all of the  
2 following information if this information is in the possession of,  
3 or readily available to, the manufacturer or supplier:

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

6 (2) The number of citations issued by a law enforcement agency  
7 based on information collected from the automated traffic  
8 enforcement system.

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 dismissed  
13 by the court.

14 (5) The number of traffic collisions at each intersection that  
15 occurred prior to, and after the installation of, the automated traffic  
16 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 or the 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 the issuing agency or the manufacturer or supplier of the~~  
4 ~~automated traffic enforcement system contacts the registered owner~~  
5 ~~of a vehicle prior to issuing a notice to appear in an effort to~~  
6 ~~determine the identity of the driver, the registered owner shall be~~  
7 ~~made aware, in a clear and prominent fashion, that the registered~~  
8 ~~owner is not required to provide the information and that failure~~  
9 ~~to provide the information will not result in additional~~  
10 ~~responsibility or liability associated with the alleged violation.~~

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