

AMENDED IN ASSEMBLY AUGUST 6, 2012

AMENDED IN ASSEMBLY JUNE 26, 2012

AMENDED IN SENATE MAY 29, 2012

**SENATE BILL**

**No. 1303**

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**Introduced by Senator Simitian**

February 23, 2012

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An act to amend Sections 1552 and 1553 of the Evidence Code, and to amend Sections 21455.5 and 40518 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1303, 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, 2013, be identified no later than January 1, 2014. 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, 2013, that a governmental agency that operates an automated traffic enforcement system establish those guidelines by January 1, 2014. 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, 2013.

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.

The bill would prohibit a governmental agency that utilizes an automated traffic enforcement system and that had signs posted on or before January 1, 2013, that met the requirements in effect on January 1, 2012, from removing those signs until the governmental agency posts signs that meet the requirements imposed by the bill.

(2) Existing law provides special written, mailed notice to appear procedures in connection with certain alleged violations recorded by an automated traffic enforcement system. Existing law provides 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, that 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 notice of nonliability 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 be substantively identical to the form set forth in the bill. 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 notice of nonliability. 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) Existing law, known as the hearsay rule, provides that, at a hearing, evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter stated is inadmissible, subject to specified exceptions. Existing law provides that a printed representation of computer information, a computer program, or images stored on a video or digital medium is presumed to be an accurate representation of the computer information, computer program, or images that it purports to represent.

This bill would provide that this presumption applies to the printed representation of computer-generated information, video, or photographic images stored by an automated traffic enforcement system. The bill would expressly state that the printed representation of computer-generated information, video, or photographic images stored by an automated traffic enforcement system does not constitute an out-of-court hearsay statement by a declarant.

(4) 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.

(5) 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 1552 of the Evidence Code is amended  
2 to read:  
3 1552. (a) A printed representation of computer information  
4 or a computer program is presumed to be an accurate representation  
5 of the computer information or computer program that it purports

1 to represent. This presumption is a presumption affecting the  
2 burden of producing evidence. If a party to an action introduces  
3 evidence that a printed representation of computer information or  
4 computer program is inaccurate or unreliable, the party introducing  
5 the printed representation into evidence has the burden of proving,  
6 by a preponderance of evidence, that the printed representation is  
7 an accurate representation of the existence and content of the  
8 computer information or computer program that it purports to  
9 represent.

10 (b) Subdivision (a) applies to the printed representation of  
11 computer-generated information stored by an automated traffic  
12 enforcement system.

13 (c) Subdivision (a) shall not apply to computer-generated official  
14 records certified in accordance with Section 452.5 or 1530.

15 SEC. 2. Section 1553 of the Evidence Code is amended to read:

16 1553. (a) A printed representation of images stored on a video  
17 or digital medium is presumed to be an accurate representation of  
18 the images it purports to represent. This presumption is a  
19 presumption affecting the burden of producing evidence. If a party  
20 to an action introduces evidence that a printed representation of  
21 images stored on a video or digital medium is inaccurate or  
22 unreliable, the party introducing the printed representation into  
23 evidence has the burden of proving, by a preponderance of  
24 evidence, that the printed representation is an accurate  
25 representation of the existence and content of the images that it  
26 purports to represent.

27 (b) Subdivision (a) applies to the printed representation of video  
28 or photographic images stored by an automated traffic enforcement  
29 system.

30 SEC. 3. Section 21455.5 of the Vehicle Code is amended to  
31 read:

32 21455.5. (a) The limit line, the intersection, or a place  
33 designated in Section 21455, where a driver is required to stop,  
34 may be equipped with an automated traffic enforcement system if  
35 the governmental agency utilizing the system meets all of the  
36 following requirements:

37 (1) Identifies the system by signs posted within 200 feet of an  
38 intersection where a system is operating that clearly indicate the  
39 system's presence and are visible to traffic approaching from all  
40 directions in which the automated traffic enforcement system is

1 being utilized to issue citations. A governmental agency utilizing  
2 such a system does not need to post signs visible to traffic  
3 approaching the intersection from directions not subject to the  
4 automated traffic enforcement system. Automated traffic  
5 enforcement systems installed as of January 1, 2013, shall be  
6 identified no later than January 1, 2014.

7 (2) Locates the system at an intersection and ensures that the  
8 system meets the criteria specified in Section 21455.7.

9 (b) Prior to issuing citations under this section, a local  
10 jurisdiction utilizing an automated traffic enforcement system shall  
11 commence a program to issue only warning notices for 30 days.  
12 The local jurisdiction shall also make a public announcement of  
13 the automated traffic enforcement system at least 30 days prior to  
14 the commencement of the enforcement program.

15 (c) Only a governmental agency, in cooperation with a law  
16 enforcement agency, may operate an automated traffic enforcement  
17 system. A governmental agency that operates an automated traffic  
18 enforcement system shall do all of the following:

19 (1) Develop uniform guidelines for screening and issuing  
20 violations and for the processing and storage of confidential  
21 information, and establish procedures to ensure compliance with  
22 those guidelines. For systems installed as of January 1, 2013, a  
23 governmental agency that operates an automated traffic  
24 enforcement system shall establish those guidelines by January 1,  
25 2014.

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

28 (A) Establishing guidelines for the selection of a location. Prior  
29 to installing an automated traffic enforcement system after January  
30 1, 2013, the governmental agency shall make and adopt a finding  
31 of fact establishing that the system is needed at a specific location  
32 for reasons related to safety.

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

34 (C) Certifying that the equipment is properly installed and  
35 calibrated, and is operating properly.

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

38 (E) Overseeing the establishment or change of signal phases  
39 and the timing thereof.

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

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

11 (e) The printed representation of computer-generated  
12 information, video, or photographic images stored by an automated  
13 traffic enforcement system does not constitute an out-of-court  
14 hearsay statement by a declarant under Division 10 (commencing  
15 with Section 1200) of the Evidence Code.

16 (f) (1) Notwithstanding Section 6253 of the Government Code,  
17 or any other law, photographic records made by an automated  
18 traffic enforcement system shall be confidential, and shall be made  
19 available only to governmental agencies and law enforcement  
20 agencies and only for the purposes of this article.

21 (2) Confidential information obtained from the Department of  
22 Motor Vehicles for the administration or enforcement of this article  
23 shall be held confidential, and shall not be used for any other  
24 purpose.

25 (3) Except for court records described in Section 68152 of the  
26 Government Code, the confidential records and information  
27 described in paragraphs (1) and (2) may be retained for up to six  
28 months from the date the information was first obtained, or until  
29 final disposition of the citation, whichever date is later, after which  
30 time the information shall be destroyed in a manner that will  
31 preserve the confidentiality of any person included in the record  
32 or information.

33 (g) Notwithstanding subdivision (f), the registered owner or any  
34 individual identified by the registered owner as the driver of the  
35 vehicle at the time of the alleged violation shall be permitted to  
36 review the photographic evidence of the alleged violation.

37 (h) (1) A contract between a governmental agency and a  
38 manufacturer or supplier of automated traffic enforcement  
39 equipment shall not include provision for the payment or  
40 compensation to the manufacturer or supplier based on the number

1 of citations generated, or as a percentage of the revenue generated,  
2 as a result of the use of the equipment authorized under this section.

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

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

13 (i) A manufacturer or supplier that operates an automated traffic  
14 enforcement system pursuant to this section shall, in cooperation  
15 with the governmental agency, submit an annual report to the  
16 Judicial Council that includes, but is not limited to, all of the  
17 following information if this information is in the possession of,  
18 or readily available to, the manufacturer or supplier:

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

21 (2) The number of citations issued by a law enforcement agency  
22 based on information collected from the automated traffic  
23 enforcement system.

24 (3) For citations identified in paragraph (2), the number of  
25 violations that involved traveling straight through the intersection,  
26 turning right, and turning left.

27 (4) The number and percentage of citations that are dismissed  
28 by the court.

29 (5) The number of traffic collisions at each intersection that  
30 occurred prior to, and after the installation of, the automated traffic  
31 enforcement system.

32 (j) If a governmental agency utilizing an automated traffic  
33 enforcement system has posted signs on or before January 1, 2013,  
34 that met the requirements of paragraph (1) of subdivision (a) of  
35 this section, as it read on January 1, 2012, the governmental agency  
36 shall not remove those signs until signs are posted that meet the  
37 requirements specified in this section, as it reads on January 1,  
38 2013.

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

1 40518. (a) Whenever a written notice to appear has been issued  
2 by a peace officer or by a qualified employee of a law enforcement  
3 agency on a form approved by the Judicial Council for an alleged  
4 violation of Section 22451, or, based on an alleged violation of  
5 Section 21453, 21455, or 22101 recorded by an automated traffic  
6 enforcement system pursuant to Section 21455.5 or 22451, and  
7 delivered by mail within 15 days of the alleged violation to the  
8 current address of the registered owner of the vehicle on file with  
9 the department, with a certificate of mailing obtained as evidence  
10 of service, an exact and legible duplicate copy of the notice when  
11 filed with the magistrate shall constitute a complaint to which the  
12 defendant may enter a plea. Preparation and delivery of a notice  
13 to appear pursuant to this section is not an arrest.

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

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

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

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

36 (c) (1) This section and Section 40520 do not preclude the  
37 issuing agency or the manufacturer or supplier of the automated  
38 traffic enforcement system from mailing a notice of nonliability  
39 to the registered owner of the vehicle or the alleged violator prior



- 1 to issuing a notice to appear. The notice of nonliability shall be
- 2 substantively identical to the following form:

- 1 PRINTER PLEASE NOTE: TIP-IN MATERIAL TO BE
- 2 INSERTED

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- 1 *PRINTER PLEASE NOTE: TIP-IN MATERIAL TO BE*
- 2 *INSERTED*

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1 (2) The form specified in paragraph (1) may be translated to  
2 other languages.

3 (d) A manufacturer or supplier of an automated traffic  
4 enforcement system or the governmental agency operating the  
5 system shall not alter the notice to appear or any other form  
6 approved by the Judicial Council. If a form is found to have been  
7 materially altered, the citation based on the altered form may be  
8 dismissed.

9 SEC. 5. No reimbursement is required by this act pursuant to  
10 Section 6 of Article XIII B of the California Constitution because  
11 the only costs that may be incurred by a local agency or school  
12 district will be incurred because this act creates a new crime or  
13 infraction, eliminates a crime or infraction, or changes the penalty  
14 for a crime or infraction, within the meaning of Section 17556 of  
15 the Government Code, or changes the definition of a crime within  
16 the meaning of Section 6 of Article XIII B of the California  
17 Constitution.