AMENDED IN ASSEMBLY AUGUST 13, 2012

AMENDED IN ASSEMBLY AUGUST 7, 2012

AMENDED IN ASSEMBLY AUGUST 6, 2012

AMENDED IN ASSEMBLY JUNE 26, 2012

AMENDED IN SENATE MAY 29, 2012

SENATE BILL No. 1303

Introduced by Senator Simitian

February 23, 2012

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:

1552. (a) A printed representation of computer information or a computer program is presumed to be an accurate representation of the computer information or computer program that it purports to represent. This presumption is a presumption affecting the burden of producing evidence. If a party to an action introduces evidence that a printed representation of computer information or computer program is inaccurate or unreliable, the party introducing the printed representation into evidence has the burden of proving, by a preponderance of evidence, that the printed representation is an accurate representation of the existence and content of the computer information or computer program that it purports to represent.

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

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

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

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

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

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

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

(1) Identifies the system by signs posted within 200 feet of an intersection where a system is operating that clearly indicate the system's presence and are visible to traffic approaching from all directions in which the automated traffic enforcement system is being utilized to issue citations. A governmental agency utilizing such a system does not need to post signs visible to traffic approaching the intersection from directions not subject to the automated traffic enforcement system. Automated traffic enforcement systems installed as of January 1, 2013, shall be identified no later than January 1, 2014.

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

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

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

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

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

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

(B) Ensuring that the equipment is regularly inspected.

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

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

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

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

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

(e) 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 under Division 10 (commencing with Section 1200) of the Evidence Code.

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

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

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

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

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

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

(3) A governmental agency that proposes to install or operate an automated traffic enforcement system shall not consider 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.

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

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

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

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

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

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

(j) If a governmental agency utilizing an automated traffic enforcement system has posted signs on or before January 1, 2013, that met the requirements of paragraph (1) of subdivision (a) of this section, as it read on January 1, 2012, the governmental agency shall not remove those signs until signs are posted that meet the

requirements specified in this section, as it reads on January 1, 2013.

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

40518. (a) 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 violation of Section 22451, or, based on an alleged violation of Section 21453, 21455, or 22101 recorded by an automated traffic enforcement system pursuant to Section 21455.5 or 22451, 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, with a certificate of mailing obtained as evidence of service, an exact and legible duplicate copy of the notice when filed with the magistrate shall constitute a complaint to which the defendant may enter a plea. Preparation and delivery of a notice to appear pursuant to this section is not an arrest.

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

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

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

(B) The contact information of the issuing agency.

(c) (1) This section and Section 40520 do not preclude the issuing agency or the manufacturer or supplier of the automated

traffic enforcement system from mailing a notice of nonliability to the registered owner of the vehicle or the alleged violator prior to issuing a notice to appear. The notice of nonliability shall be substantively identical to the following form:

~~COURTESY NOTICE: THIS IS NOT A TICKET~~

~~[Insert agency name]~~
~~INSTRUCTION PAGE~~

~~**The Reason You Received This Notice:**~~
~~A vehicle registered in your name was photographed failing to stop for an official red light traffic control signal. This is a violation of the State of California Vehicle Code Section 21453(a) or (c) pursuant to Section 21455.5.~~

~~**You are encouraged to view the video of this violation and to respond to this notice. You may make an appointment to view the evidence by calling the [insert agency name] at (000) 000-0000.** During this viewing, an officer or qualified employee will show you a high quality video and still images depicting the violation in greater detail than the printed photos in this notice.~~

~~You can also view the video online at www.0000000000.~~

~~The video is available online for 60 days from the date of violation. After 60 days an appointment must be made with [insert agency name].~~

~~**DO NOT CALL THE COURT REGARDING THIS NOTICE. For additional questions contact the Photo Enforcement Program at (000) 000-0000.**~~

~~Tear Here~~ ~~Tear Here~~ ~~Tear Here~~

~~NOTICE OF NON-LIABILITY~~

~~IF YOU WERE NOT THE DRIVER/OWNER~~
~~Violation #: <<Enter #>>~~ ~~Last Issued To: <<Enter Name>>~~

~~[Insert agency name]~~

~~CHECK ONE:~~
- ☐ ~~The person named below was the driver of the vehicle.~~
- ☐ ~~I sold the vehicle prior to the violation date to the person named below.~~
- ☐ ~~I have never owned this vehicle or license plate.~~

~~CHECK ONE:~~
- ☐ ~~I am an individual.~~
- ☐ ~~I am a car rental or leasing company.~~

~~Print Actual Driver/New Owner's Name: _____ Driver's License/ID No.: _____~~

~~Address: _____ Issued in the State of: _____~~

~~City, State, ZIP Code: _____ Date of Birth: _____~~

~~Gender: _____ Hair Color: _____ Eye Color: _____ Height: _____ Weight: _____~~

~~DECLARATION~~
~~I CERTIFY THAT THE FOREGOING IS TRUE AND CORRECT~~

~~Signature _____ Print Name _____~~

~~Your Telephone Number (_____) _____ - _____ Date _____~~

COURTESY NOTICE: THIS IS NOT A TICKET

[insert name of jurisdiction]
PHOTO ENFORCEMENT PROGRAM
Agency Address:

<Name>
<Address>
<City State, Zip>

VIOLATION #						
ADDRESS			CITY		STATE	ZIP
COLOR	YEAR	MAKE	MODEL	STYLE	LICENSE PLATE	STATE
MONTH	DAY	YEAR	TIME			
LOCATION			VEHICLE SPEED		POSTED SPEED	
Statute			Violation Description			
Officer's Name			Badge #			

SCENE A	SCENE B
ZOOM FACE	ZOOM PLATE

Certificate of Mailing

I, (name_of_mailer), of_____, do certify that I am over 18 years old and not a party to the above entitled case. On (Print_Date) I placed this Notice in an envelope addressed to the registered owner or lessee as shown above, sealed it and deposited the envelope in a United States Postal Service receptacle located in (city, state). In the ordinary course of business, the envelope is sealed, affixed with proper postage and mailed. I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated:

Signature of Mailer

(Code of Civil Procedure 1013a [3], 2015.5)

COURTESY NOTICE: THIS IS NOT A TICKET

[insert agency name]
INSTRUCTION PAGE

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You can also view the video online at www.0000000000.

The video is available online for 60 days from the date of violation. After 60 days an appointment must be made with [insert agency name].

DO NOT CALL THE COURT REGARDING THIS NOTICE. For additional questions contact the Photo Enforcement Program at (000) 000-0000.

Tear Here Tear Here Tear Here

NOTICE OF NON-LIABILITY

IF YOU WERE NOT THE DRIVER/OWNER
Violation #: <<Enter #>>

Last Issued To: <<Enter Name>>

[Insert agency name]

CHECK ONE:
- ☐ The person named below was the driver of the vehicle.
- ☐ I sold the vehicle prior to the violation date to the person named below.
- ☐ I have never owned this vehicle or license plate.

CHECK ONE:
- ☐ I am an individual.*
- ☐ I am a car rental or leasing company.**

* If an individual, provide the name of the driver and the portion of the information requested below that you know.
** If a car rental or leasing company, provide the information requested below.

Print Actual Driver/New Owner's Name: _____ Driver's License/ID No.: _____

Address: _____ Issued in the State of: _____

City, State, ZIP Code: _____ Date of Birth: _____

Gender: _____ Hair Color: _____ Eye Color: _____ Height: _____ Weight: _____

DECLARATION
I CERTIFY THAT THE FOREGOING IS TRUE AND CORRECT

Signature: _____ Print Name: _____

Your Telephone Number: (_____) _____-_____ Date: _____

COURTESY NOTICE: THIS IS NOT A TICKET

[Insert agency name]

INSTRUCTION PAGE

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The video is available online for 60 days from the date of violation. After 60 days an appointment must be made with [insert agency name].

DO NOT CALL THE COURT REGARDING THIS NOTICE. For additional questions contact the Photo Enforcement Program at (000) 000-0000.

Tear Here *Tear Here* *Tear Here*

NOTICE OF NON-LIABILITY

IF YOU WERE NOT THE DRIVER/OWNER
Violation #: <<Enter #>>

Last Issued To: <<Enter Name>>

[Insert agency name]

CHECK ONE:
- ☐ ***The person named below was the driver of the vehicle.***
- ☐ ***I sold the vehicle prior to the violation date to the person named below.***
- ☐ ***I have never owned this vehicle or license plate.***

CHECK ONE:
- ☐ ***I am an individual.***
- ☐ ***I am a car rental or leasing company.***

Print Actual Driver/New Owner's Name: _____ ***Driver's License/ID No.:*** _____

Address: _____ ***Issued in the State of:*** _____

City, State, ZIP Code: _____ ***Date of Birth:*** _____

Gender: _____ ***Hair Color:*** _____ ***Eye Color:*** _____ ***Height:*** _____ ***Weight:*** _____

DECLARATION
I CERTIFY THAT THE FOREGOING IS TRUE AND CORRECT

Signature _____ ***Print Name*** _____

Your Telephone Number ( ) _____ - _____ ***Date*** _____

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

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

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

CORRECTIONS:

Text—Page 13.

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