

ASSEMBLY BILL

No. 1287

Introduced by Assembly Member Chiu

February 27, 2015

An act to amend Section 70615 of the Government Code, to amend Section 10878 of the Revenue and Taxation Code, and to amend Sections 9800, 40240, and 40241 of, to amend the heading of Article 3.5 (commencing with Section 40240) of Chapter 1 of Division 17 of, to add Section 40244 to, and to repeal and add Sections 40242 and 40243 of, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1287, as introduced, Chiu. Vehicles: parking violations: cameras.

Existing law, until January 1, 2016, authorizes the City and County of San Francisco (San Francisco) to install automated forward-facing parking control devices on city-owned public transit vehicles for the purpose of video imaging parking violations occurring in transit-only traffic lanes. Existing law subjects a violation of a federal or state statute or regulation, or a San Francisco ordinance, governing parking that is observed in the recordings to a civil penalty.

This bill would instead authorize San Francisco to install forward-facing cameras to record parking violations and high-occupancy lane and intersection obstruction violations. The bill would require a high-occupancy lane or intersection obstruction violation recorded pursuant to these provisions to be subject to a civil penalty not to exceed \$100. The bill would delete the repeal date, thereby extending the operation of these provisions indefinitely.

This bill would, among other things, authorize an issuing agency to assess late payment fees, as specified, if payment of the civil penalty

is not received within a specified time. The bill would require the Department of Motor Vehicles to refuse to renew the registration of a vehicle if, among other things, the owner or lessee has not paid the civil penalty and late payment fees, except if he or she pays at the time of application for renewal. The bill would require the department to remit all penalties and late payment fees collected, after deducting administrative fees, to San Francisco.

Existing law provides that payments for specified penalties, including penalties for offenses relating to the parking of a vehicle, required to register or transfer the registration of a vehicle, constitute a lien on the vehicle on which the payments are due or which was involved in the offenses, and on any other vehicle owned by the owner of that vehicle.

This bill would also include payments for penalties for high-occupancy lane and intersection obstruction violations issued pursuant to the above-mentioned provisions as constituting a lien on the specified vehicles.

Existing law transfers the responsibility and authority for the collection of specified delinquent amounts, including penalties for offenses relating to the standing or parking of a vehicle, from the department to the Franchise Tax Board.

This bill would also transfer to the board the responsibility and authority to collect penalties for offenses relating to a high-occupancy lane or intersection obstruction violations issued pursuant to the above-mentioned provisions.

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

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

1 SECTION 1. Section 70615 of the Government Code is
2 amended to read:
3 70615. The fee for filing any of the following appeals to the
4 superior court is twenty-five dollars (\$25):
5 (a) An appeal of a local agency's decision regarding an
6 administrative fine or penalty under Section 53069.4.
7 (b) An appeal under Section 40230 of the Vehicle Code of an
8 administrative agency's decision regarding a parking-violation.
9 ~~violation or a violation of Section 21655.5, 21655.8, or 22526 of~~
10 ~~the Vehicle Code pursuant to Section 40240 of the Vehicle Code.~~

1 (c) An appeal under Section 99582 of the Public Utilities Code
2 of a hearing officer's determination regarding an administrative
3 penalty for fare evasion or a passenger conduct violation.

4 SEC. 2. Section 10878 of the Revenue and Taxation Code is
5 amended to read:

6 10878. (a) Notwithstanding Sections 10877 and 10951, on
7 and after July 1, 1993, the responsibility and authority for the
8 collection of the following delinquent amounts, and any interest,
9 penalties, or service fees added thereto, shall be transferred from
10 the department to the Franchise Tax Board:

11 (1) Registration fees.

12 (2) Transfer fees.

13 (3) License fees.

14 (4) Use taxes.

15 (5) Penalties for offenses relating to the standing or parking of
16 a vehicle for which a notice of parking violation, *or for a violation*
17 *of Section 21655.5, 21655.8, or 22526 of the Vehicle Code for*
18 *which a notice issued pursuant to Section 40241 of the Vehicle*
19 *Code, has been served on the owner, and any administrative service*
20 *fee added to the penalty.*

21 (6) Any court-imposed fine or penalty assessment, and any
22 administrative service fee added thereto, that is subject to collection
23 by the department.

24 (b) Any reference in this part to the department in connection
25 with the duty to collect these amounts shall be deemed a reference
26 to the Franchise Tax Board.

27 (c) The amounts collected under subdivision (a) may be
28 collected in any manner authorized under the law as though they
29 were a tax imposed under Part 10 (commencing with Section
30 17001) that is final, including, but not limited to, issuance of an
31 order and levy under Article 4 (commencing with Section 706.070)
32 of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil
33 Procedure in the manner provided for earnings withholding order
34 for taxes. Part 10 (commencing with Section 17001), 10.2
35 (commencing with Section 18401), or 10.7 (commencing with
36 Section 21001), or any other applicable law shall apply for this
37 purpose in the same manner and with the same force and effect as
38 if the language of Part 10, 10.2, or 10.7, or the other applicable
39 law is incorporated in full into this authority to collect these
40 amounts, except to the extent that the provision is either

1 inconsistent with the collection of these amounts or is not relevant
2 to the collection of these amounts.

3 (d) Even though the amounts authorized by this section are
4 collected as though they are taxes, amounts so received by the
5 Franchise Tax Board shall be deposited into an appropriate fund
6 or account upon agreement between the Franchise Tax Board and
7 the department. The amounts shall be distributed by the department
8 from the appropriate fund or account in accordance with the laws
9 providing for the deposits and distributions as though the moneys
10 were received by the department.

11 (e) For any collection action under this section, the Franchise
12 Tax Board may utilize the contract authorization, procedures, and
13 mechanisms available either with respect to the collection of taxes,
14 interest, additions to tax, and penalties pursuant to Section 18837
15 or 19376, or with respect to the collection of the delinquencies by
16 the department immediately prior to the time this section takes
17 effect.

18 (f) The Legislature finds that it is essential for fiscal purposes
19 that the program authorized by this section be expeditiously
20 implemented. Accordingly, Chapter 3.5 (commencing with Section
21 11340) of Part 1 of Division 3 of Title 2 of the Government Code
22 shall not apply to any standard, criteria, procedure, determination,
23 rule, notice, or guideline established or issued by the Franchise
24 Tax Board in implementing and administering the program required
25 by this section.

26 (g) Any standard, criteria, procedure, determination, rule, notice,
27 or guideline, that is not subject to the provisions of Chapter 3.5
28 (commencing with Section 11340) of Part 1 of Division 3 of Title
29 2 of the Government Code pursuant to subdivision (f), shall be
30 approved by the Franchise Tax Board, itself.

31 (h) The Franchise Tax Board may enter into any agreements or
32 contracts necessary to implement and administer the provisions
33 of this section. The Franchise Tax Board in administering this
34 section may delegate collection activities to the department. Any
35 contracts may provide for payment of the contract on the basis of
36 a percentage of the amount of revenue realized as a result of the
37 contractor's services under that contract. However, the Franchise
38 Tax Board, in administering this part, may not enter into contracts
39 with private collection agencies as authorized under Section 19377.

40 SEC. 3. Section 9800 of the Vehicle Code is amended to read:

1 9800. (a) Payments for any of the following, and any interest,
2 penalties, or service fees added thereto, required to register or
3 transfer the registration of a vehicle, constitute a lien on the vehicle
4 on which they are due or which was involved in the offense, and
5 on any other vehicle owned by the owner of that vehicle:

6 (1) Registration fees.

7 (2) Transfer fees.

8 (3) License fees.

9 (4) Use taxes.

10 (5) Penalties for offenses relating to the standing or parking of
11 a vehicle for which a notice of parking violation, *or for a violation*
12 *of Section 21655.5, 21655.8, or 22526 of the Vehicle Code for*
13 *which a notice issued pursuant to Section 40241 of the Vehicle*
14 *Code, has been served on the owner, and any administrative service*
15 *fee added to the penalty.*

16 (6) Any court-imposed fine or penalty assessment, and any
17 administrative service fee added thereto, which is subject to
18 collection by the department.

19 (b) Notwithstanding subdivision (a), if a person is cited for a
20 foreign registered auxiliary dolly, semitrailer, or trailer having
21 been operated without current year registration or valid California
22 permits or registration, an amount equal to the minimum
23 registration fees or transfer fees, and any penalty added thereto,
24 from the date they became due, shall, by election of the power unit
25 operator, constitute a lien upon the California registered power
26 unit—~~which~~ *that* was pulling the dolly, semitrailer, or trailer.
27 However, this subdivision is not applicable if the citation is issued
28 at a scale operated by the Department of the California Highway
29 Patrol and registration for the vehicle can be issued there
30 immediately upon payment of the fees due.

31 (c) Every lien arising under this section expires three years from
32 the date the fee, tax, ~~or~~ parking, *or other* penalty first became due
33 unless the lien is perfected pursuant to subdivision (d).

34 (d) A lien is perfected when a notice is mailed to the registered
35 and legal owners at the addresses shown in the department's
36 records and the lien is recorded on the electronic vehicle
37 registration records of the department. A perfected lien shall expire
38 five years from the date of perfection.

39 (e) Employees and members of the Department of the California
40 Highway Patrol assigned to commercial vehicle scale facilities

1 may possess and sell trip permits approved by the Department of
2 Motor Vehicles.

3 SEC. 4. The heading of Article 3.5 (commencing with Section
4 40240) of Chapter 1 of Division 17 of the Vehicle Code is amended
5 to read:

6
7 Article 3.5. Procedure ~~on Video Imaging of~~ *for Recording*
8 *Parking Violations Occurring in Transit-Only Lanes and Certain*
9 *Moving Violations*

10
11 SEC. 5. Section 40240 of the Vehicle Code is amended to read:

12 40240. (a) The City and County of San Francisco may install
13 ~~automated forward-facing parking control devices forward-facing~~
14 ~~cameras on city-owned public transit vehicles; vehicles that are~~
15 ~~part of a public transportation system, as defined by Section 99211~~
16 ~~of the Public Utilities Code, for the purpose of video imaging of~~
17 ~~recording parking violations occurring in transit-only traffic lanes.~~
18 ~~Citations shall be issued only for violations captured during the~~
19 ~~posted hours of operation for a transit-only traffic lane; and~~
20 ~~violations of Sections 21655.5, 21655.8, and 22526. The devices~~
21 ~~cameras shall be angled and focused so as to capture video images~~
22 ~~of record parking violations and not unnecessarily capture~~
23 ~~identifying images of other drivers, vehicles, and pedestrians. The~~
24 ~~devices cameras shall record the date and time of the violation at~~
25 ~~the same time as the video images are captured; the violation is~~
26 ~~recorded.~~

27 ~~(b) Prior to issuing notices of parking violations pursuant to~~
28 ~~subdivision (a) of Section 40241, the City and County of San~~
29 ~~Francisco shall commence a program to issue only warning notices~~
30 ~~for 30 days. The City and County of San Francisco shall also make~~
31 ~~a public announcement of the program at least 30 days prior to~~
32 ~~commencement of issuing notices of parking violations.~~

33 (e)

34 (b) (1) A designated employee of the City and County of San
35 Francisco, who is qualified by the city and county to issue parking
36 citations, shall review ~~video image~~ *the camera* recordings for the
37 purpose of determining whether a parking violation ~~occurred in a~~
38 ~~transit-only traffic lane; or a violation of Section 21655.5, 21655.8,~~
39 ~~or 22526 occurred.~~ A violation of a statute, regulation, or ordinance
40 governing vehicle parking under this code, under a federal or state

1 statute or regulation, or under an ordinance enacted by the City
2 and County of San Francisco occurring in a transit-only traffic
3 lane Francisco, or a violation of Section 21655.5, 21655.8, or
4 22526, observed by the designated employee in the recordings is
5 subject to a civil penalty.

6 (2) Notwithstanding any other law, a violation of Section
7 21655.5, 21655.8, or 22526 that is recorded pursuant to this
8 section shall be subject to a civil penalty that shall not exceed one
9 hundred dollars (\$100), which shall be remitted to the City and
10 County of San Francisco.

11 ~~(d)~~

12 (c) The registered owner, or an individual identified by
13 the registered owner as the driver of the vehicle at the time of the
14 alleged violation, shall be permitted to review the video image
15 recorded evidence of the alleged violation during normal business
16 hours at no cost.

17 ~~(e)~~

18 (d) (1) Except as it may be included in court records described
19 in Section 68152 of the Government Code, or as provided in
20 paragraph (2), the video image recorded evidence may be retained
21 for up to six months from the date the information was first
22 obtained, or 60 days after final disposition of the citation,
23 whichever date is later, after which time the information shall be
24 destroyed.

25 (2) Notwithstanding Section 26202.6 of the Government Code,
26 video image recorded evidence from forward-facing automated
27 enforcement devices forward-facing cameras that does not contain
28 evidence of a parking violation occurring in a transit-only traffic
29 lane or a violation of Section 21655.5, 21655.8, or 22526 shall be
30 destroyed within 15 days after the information was first obtained.

31 ~~(f)~~

32 (e) Notwithstanding Section 6253 of the Government Code, or
33 any other provision of law, the video image records camera
34 recordings are confidential. Public agencies shall use and allow
35 access to these records only for the purposes authorized by this
36 article.

37 ~~(g)~~

38 (f) For purposes of this article, “local agency” means the City
39 and County of San Francisco.

1 ~~(h) For purposes of this article, “transit-only traffic lane” means~~
2 ~~any designated transit-only lane on which use is restricted to mass~~
3 ~~transit vehicles, or other designated vehicles including taxis and~~
4 ~~vanpools, during posted times.~~

5 SEC. 6. Section 40241 of the Vehicle Code is amended to read:

6 40241. (a) A designated employee of the local agency shall
7 issue a notice of ~~a parking~~ violation to the registered owner of a
8 vehicle within 15 calendar days of the date of the violation. The
9 notice of violation shall set forth the violation of a statute,
10 regulation, or ordinance governing vehicle parking under this code,
11 under a federal or state statute or regulation, or under an ordinance
12 enacted by the City and County of San Francisco ~~occurring in a~~
13 ~~transit-only traffic lane, Francisco, or a violation of Section~~
14 ~~21655.5, 21655.8, or 22526,~~ a statement indicating that payment
15 is required within 21 calendar days from the date of citation
16 issuance, and the procedure for the registered owner, lessee, or
17 rentee to deposit the ~~parking~~ penalty or contest the citation pursuant
18 to Section 40215. The notice of ~~a parking~~ violation shall also set
19 forth the date, time, and location of the violation, the vehicle license
20 number, registration expiration date if visible, the color of the
21 vehicle, and, if possible, the make of the vehicle. The notice of
22 ~~parking~~ violation, or copy of the notice, shall be considered a
23 record kept in the ordinary course of business of the City and
24 County of San Francisco and shall be prima facie evidence of the
25 facts contained in the notice. The City and County of San Francisco
26 shall send information regarding the process for requesting review
27 of the ~~video image recorded~~ evidence along with the notice of
28 ~~parking~~ violation.

29 (b) The notice of ~~parking~~ violation shall be served by depositing
30 the notice in the United States mail to the registered owner’s last
31 known address listed with the Department of Motor Vehicles.
32 Proof of mailing demonstrating that the notice of ~~parking~~ violation
33 was mailed to that address shall be maintained by the local agency.
34 If the registered owner, by appearance or by mail, makes payment
35 to the processing agency or contests the violation within either 21
36 calendar days from the date of mailing of the citation, or 14
37 calendar days after the mailing of the notice of delinquent ~~parking~~
38 violation, the ~~parking~~ penalty shall consist solely of the amount
39 of the original penalty.

1 (c) If, within 21 days after the notice of ~~parking~~ violation is
2 issued, the local agency determines that, in the interest of justice,
3 the notice of ~~parking~~ violation should be canceled, the local agency
4 shall cancel the notice of ~~parking~~ violation pursuant to subdivision
5 (a) of Section 40215. The reason for the cancellation shall be set
6 forth in writing.

7 (d) Following an initial review by the local agency, and an
8 administrative hearing, pursuant to Section 40215, a contestant
9 may seek court review by filing an appeal ~~pursuant to~~ *of a parking*
10 *violation or a violation of Section 21655.5, 21655.8, or 22526*
11 *following the procedures for appeals of parking violations set forth*
12 *in Section 40230.*

13 (e) The City and County of San Francisco may contract with a
14 private vendor for the processing of notices of ~~parking~~ violations
15 and notices of delinquent violations. The City and County of San
16 Francisco shall maintain overall control and supervision of the
17 program.

18 SEC. 7. Section 40242 of the Vehicle Code is repealed.

19 ~~40242. If the City and County of San Francisco implements a~~
20 ~~parking enforcement pilot program pursuant to this article, no later~~
21 ~~than March 1, 2015, the City and County of San Francisco shall~~
22 ~~provide to the transportation and judiciary committees of the~~
23 ~~Legislature an evaluation of the pilot program's effectiveness and~~
24 ~~impact on privacy in compliance with Section 9795 of the~~
25 ~~Government Code.~~

26 SEC. 8. Section 40242 is added to the Vehicle Code, to read:

27 40242. (a) If payment of the penalty is not received by the
28 person authorized to receive a deposit of the penalty by the time
29 and date fixed on the notice of violation under Section 40241, the
30 issuing agency may assess late payment fees in an amount as
31 determined by the issuing agency, and shall serve or mail to the
32 registered owner a notice of delinquent violation.

33 (b) Delivery of a notice of delinquent violation under this section
34 may be made by personal service or by first-class mail addressed
35 to the registered owner.

36 (c) The notice of delinquent violation shall contain a notice to
37 the registered owner that, unless the registered owner pays the
38 penalty or contests the notice within 15 days after mailing of the
39 notice of delinquent violation, the renewal of the vehicle
40 registration shall be contingent upon compliance with the notice

1 of delinquent violation. If the registered owner, by appearance or
2 by mail, makes payment to the issuing agency within 15 days of
3 the mailing of the notice of delinquent violation, the penalty shall
4 consist of the amount of the original penalty and any late payment
5 fees.

6 SEC. 9. Section 40243 of the Vehicle Code is repealed.

7 ~~40243. This article shall remain in effect only until January 1,~~
8 ~~2016, and as of that date is repealed, unless a later enacted statute,~~
9 ~~that is enacted before January 1, 2016, deletes or extends that date.~~

10 SEC. 10. Section 40243 is added to the Vehicle Code, to read:

11 40243. (a) (1) Except as provided in subdivisions (b) and (d),
12 the department shall refuse to renew the registration of a vehicle
13 if the registered owner or lessee has been mailed a notice of
14 delinquent violation, the processing agency has filed or
15 electronically transmitted to the department an itemization of
16 unpaid violation penalties, including late payment fees, and the
17 owner or lessee has not paid the violation penalty and late payment
18 fees, unless he or she pays to the department, at the time of
19 application for renewal, the full amount of all outstanding penalties,
20 late payment fees, and any administrative fee assessed by the
21 department pursuant to subdivision (b) of Section 40244, as shown
22 by records of the department.

23 (2) When the department receives the full amount of all
24 outstanding violation penalties, late payment fees, and
25 administrative fees pursuant to paragraph (1), the department shall
26 issue a receipt showing each penalty, late payment fee, and
27 administrative fee that has been paid, the processing agency for
28 those penalties and fees, and a description of the vehicle involved
29 in the violations.

30 (b) The department shall not refuse to renew the registration of
31 a vehicle if the applicant provides the department with the abstract
32 or notice of disposition of violation issued pursuant to subdivision
33 (c) for clearing all outstanding penalties, late payment fees, and
34 administrative fees as shown by the records of the department.

35 (c) The court or designated processing agency shall issue an
36 abstract or notice of disposition of violation to the registered owner
37 of a vehicle issued a notice of delinquent violation if the registered
38 owner provides the court or processing agency with the name,
39 address, and driver's license number of the rentee or lessee at the
40 time of occurrence of the violation, and adequate proof that the

1 renter or lessee had possession of the vehicle at the date and time
2 of the violation.

3 (d) The department shall not refuse to renew the registration of
4 a vehicle if the violation was issued prior to the registered owner
5 taking possession of the vehicle.

6 SEC. 11. Section 40244 is added to the Vehicle Code, to read:

7 40244. (a) The department shall remit all penalties and late
8 payment fees collected, after deducting the administrative fee
9 authorized in subdivision (b), for each notice of delinquent
10 violation for which penalties and late payment fees have been
11 collected, to the City and County of San Francisco in the amount
12 due. Within 45 days from the time penalties are recorded by the
13 department, the department shall inform the City and County of
14 San Francisco which of its notices of delinquent violation have
15 been discharged.

16 (b) The department shall assess a fee for recording the notice
17 of delinquent violation in an amount, as determined by the
18 department, that is no more than the amount sufficient to cover its
19 actual administrative costs.