

AMENDED IN ASSEMBLY APRIL 29, 2015

AMENDED IN ASSEMBLY APRIL 22, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

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~~ *Sections 40244 and 40244.5* to, and to repeal and add Sections 40242 and 40243 of, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1287, as amended, Chiu. Vehicles: parking and moving 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 exclusive or preferential transit-only lane and intersection obstruction violations. The bill would require an exclusive or preferential transit-only 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 exclusive or preferential transit-only 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 exclusive or preferential transit-only lane or intersection obstruction violations issued pursuant to the above-mentioned provisions.

This bill would make legislative findings and declarations as to the necessity of a special statute for the City and County of San Francisco.

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):

1 (a) An appeal of a local agency's decision regarding an
2 administrative fine or penalty under Section 53069.4.

3 (b) An appeal under Section 40230 of the Vehicle Code of an
4 administrative agency's decision regarding a parking violation or
5 a violation of Section 21655.5 or 21655.8 of the Vehicle Code
6 occurring in an exclusive or preferential transit-only lane or Section
7 22526 of the Vehicle Code pursuant to Section 40240 of the
8 Vehicle Code.

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

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

14 10878. (a) Notwithstanding Sections 10877 and 10951, on
15 and after July 1, 1993, the responsibility and authority for the
16 collection of the following delinquent amounts, and any interest,
17 penalties, or service fees added thereto, shall be transferred from
18 the department to the Franchise Tax Board:

19 (1) Registration fees.

20 (2) Transfer fees.

21 (3) License fees.

22 (4) Use taxes.

23 (5) Penalties for offenses relating to the standing or parking of
24 a vehicle for which a notice of parking violation, or for a violation
25 of Section 21655.5 or 21655.8 of the Vehicle Code occurring in
26 an exclusive or preferential transit-only lane or Section 22526 of
27 the Vehicle Code for which a notice issued pursuant to Section
28 40241 of the Vehicle Code, has been served on the owner, and any
29 administrative service fee added to the penalty.

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

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

36 (c) The amounts collected under subdivision (a) may be
37 collected in any manner authorized under the law as though they
38 were a tax imposed under Part 10 (commencing with Section
39 17001) that is final, including, but not limited to, issuance of an
40 order and levy under Article 4 (commencing with Section 706.070)

1 of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil
2 Procedure in the manner provided for earnings withholding order
3 for taxes. Part 10 (commencing with Section 17001), 10.2
4 (commencing with Section 18401), or 10.7 (commencing with
5 Section 21001), or any other applicable law shall apply for this
6 purpose in the same manner and with the same force and effect as
7 if the language of Part 10, 10.2, or 10.7, or the other applicable
8 law is incorporated in full into this authority to collect these
9 amounts, except to the extent that the provision is either
10 inconsistent with the collection of these amounts or is not relevant
11 to the collection of these amounts.

12 (d) Even though the amounts authorized by this section are
13 collected as though they are taxes, amounts so received by the
14 Franchise Tax Board shall be deposited into an appropriate fund
15 or account upon agreement between the Franchise Tax Board and
16 the department. The amounts shall be distributed by the department
17 from the appropriate fund or account in accordance with the laws
18 providing for the deposits and distributions as though the moneys
19 were received by the department.

20 (e) For any collection action under this section, the Franchise
21 Tax Board may utilize the contract authorization, procedures, and
22 mechanisms available either with respect to the collection of taxes,
23 interest, additions to tax, and penalties pursuant to Section 18837
24 or 19376, or with respect to the collection of the delinquencies by
25 the department immediately prior to the time this section takes
26 effect.

27 (f) The Legislature finds that it is essential for fiscal purposes
28 that the program authorized by this section be expeditiously
29 implemented. Accordingly, Chapter 3.5 (commencing with Section
30 11340) of Part 1 of Division 3 of Title 2 of the Government Code
31 shall not apply to any standard, criteria, procedure, determination,
32 rule, notice, or guideline established or issued by the Franchise
33 Tax Board in implementing and administering the program required
34 by this section.

35 (g) Any standard, criteria, procedure, determination, rule, notice,
36 or guideline, that is not subject to the provisions of Chapter 3.5
37 (commencing with Section 11340) of Part 1 of Division 3 of Title
38 2 of the Government Code pursuant to subdivision (f), shall be
39 approved by the Franchise Tax Board, itself.

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

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

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

(1) Registration fees.

(2) Transfer fees.

(3) License fees.

(4) Use taxes.

(5) Penalties for offenses relating to the standing or parking of a vehicle for which a notice of parking violation, or for a violation of Section 21655.5 or 21655.8 occurring in an exclusive or preferential transit-only lane or Section 22526 for which a notice issued pursuant to Section 40241, has been served on the owner, and any administrative service fee added to the penalty.

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

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

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

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

(e) Employees and members of the Department of the California Highway Patrol assigned to commercial vehicle scale facilities may possess and sell trip permits approved by the Department of Motor Vehicles.

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

Article 3.5. Procedure for Recording Parking Violations and
Certain Moving Violations

SEC. 5. Section 40240 of the Vehicle Code is amended to read:
40240. (a) The City and County of San Francisco may install forward-facing cameras on city-owned public transit vehicles that are part of a public transportation system, as defined by Section 99211 of the Public Utilities Code, for the purpose of recording parking violations and violations of Sections 21655.5 and 21655.8 occurring in an exclusive or preferential transit-only lane and Section 22526. The cameras shall be angled and focused so as to record parking violations and not unnecessarily capture identifying images of other drivers, vehicles, and pedestrians. The cameras shall record the date and time of the violation at the same time the violation is recorded.

(b) *Prior to issuing notices of violation pursuant to subdivision (a) of Section 40241 for violations other than a parking violation in an exclusive or preferential transit-only lane, the City and County of San Francisco shall commence a program to issue only warning notices for 30 days. The City and County of San Francisco shall also make a public announcement of the program at least 30 days prior to commencement of issuing notices of violation for violations other than a parking violation in an exclusive or preferential transit-only lane.*

1 ~~(b)~~

2 ~~(c)~~ (1) A designated employee of the City and County of San
3 Francisco, who is qualified by the city and county to issue citations,
4 shall review the camera recordings for the purpose of determining
5 whether a parking violation or a violation of Section 21655.5 or
6 21655.8 occurring in an exclusive or preferential transit-only lane
7 or Section 22526 occurred. A violation of a statute, regulation, or
8 ordinance governing vehicle parking under this code, under a
9 federal or state statute or regulation, or under an ordinance enacted
10 by the City and County of San Francisco, or a violation of Section
11 21655.5 or 21655.8 occurring in an exclusive or preferential
12 transit-only lane or Section 22526, observed by the designated
13 employee in the recordings is subject to a civil penalty.

14 (2) Notwithstanding any other law, a violation of Section
15 21655.5 or 21655.8 occurring in an exclusive or preferential
16 transit-only lane or Section 22526 that is recorded pursuant to this
17 section shall be subject to a civil penalty that shall not exceed one
18 hundred dollars (\$100), which shall be remitted to the City and
19 County of San Francisco.

20 ~~(e)~~

21 ~~(d)~~ The registered owner, or an individual identified by the
22 registered owner as the driver of the vehicle at the time of the
23 alleged violation, shall be permitted to review the recorded
24 evidence of the alleged violation during normal business hours at
25 no cost.

26 ~~(d)~~

27 ~~(e)~~ (1) Except as it may be included in court records described
28 in Section 68152 of the Government Code, or as provided in
29 paragraph (2), the recorded evidence may be retained for up to six
30 months from the date the information was first obtained, or 60
31 days after final disposition of the citation, whichever date is later,
32 after which time the information shall be destroyed.

33 (2) Notwithstanding Section 26202.6 of the Government Code,
34 recorded evidence from forward-facing cameras that does not
35 contain evidence of a parking violation or a violation of Section
36 21655.5 or 21655.8 occurring in an exclusive or preferential
37 transit-only lane or Section 22526 shall be destroyed within 15
38 days after the information was first obtained.

39 ~~(e)~~

1 (f) Notwithstanding Section 6253 of the Government Code, or
2 any other law, the camera recordings are confidential. Public
3 agencies shall use and allow access to these records only for the
4 purposes authorized by this article.

5 (f)

6 (g) For purposes of this article, “local agency” means the City
7 and County of San Francisco.

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

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

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

1 the penalty shall consist solely of the amount of the original
2 penalty.

3 (c) If, within 21 days after the notice of violation is issued, the
4 local agency determines that, in the interest of justice, the notice
5 of violation should be canceled, the local agency shall cancel the
6 notice of violation pursuant to subdivision (a) of Section 40215.

7 The reason for the cancellation shall be set forth in writing.

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

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

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

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

22 40242. (a) If payment of the penalty is not received by the
23 person authorized to receive a deposit of the penalty by the time
24 and date fixed on the notice of violation under Section 40241, the
25 issuing agency may assess late payment fees in an amount as
26 determined by the issuing agency, and shall serve or mail to the
27 registered owner a notice of delinquent violation.

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

31 (c) The notice of delinquent violation shall contain a notice to
32 the registered owner that, unless the registered owner pays the
33 penalty or contests the notice within 15 days after mailing of the
34 notice of delinquent violation, the renewal of the vehicle
35 registration shall be contingent upon compliance with the notice
36 of delinquent violation. If the registered owner, by appearance or
37 by mail, makes payment to the issuing agency within 15 days of
38 the mailing of the notice of delinquent violation, the penalty shall
39 consist of the amount of the original penalty and any late payment
40 fees.

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

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

3 40243. (a) (1) Except as provided in subdivisions (b) and (d),
4 the department shall refuse to renew the registration of a vehicle
5 if the registered owner or lessee has been mailed a notice of
6 delinquent violation, the processing agency has filed or
7 electronically transmitted to the department an itemization of
8 unpaid violation penalties, including late payment fees, and the
9 owner or lessee has not paid the violation penalty and late payment
10 fees, unless he or she pays to the department, at the time of
11 application for renewal, the full amount of all outstanding penalties,
12 late payment fees, and any administrative fee assessed by the
13 department pursuant to subdivision (b) of Section 40244, as shown
14 by records of the department.

15 (2) When the department receives the full amount of all
16 outstanding violation penalties, late payment fees, and
17 administrative fees pursuant to paragraph (1), the department shall
18 issue a receipt showing each penalty, late payment fee, and
19 administrative fee that has been paid, the processing agency for
20 those penalties and fees, and a description of the vehicle involved
21 in the violations.

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

27 (c) The court or designated processing agency shall issue an
28 abstract or notice of disposition of violation to the registered owner
29 of a vehicle issued a notice of delinquent violation if the registered
30 owner provides the court or processing agency with the name,
31 address, and driver's license number of the rentee or lessee at the
32 time of occurrence of the violation, and adequate proof that the
33 renter or lessee had possession of the vehicle at the date and time
34 of the violation.

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

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

39 40244. (a) The department shall remit all penalties and late
40 payment fees collected, after deducting the administrative fee

1 authorized in subdivision (b), for each notice of delinquent
2 violation for which penalties and late payment fees have been
3 collected, to the City and County of San Francisco in the amount
4 due. Within 45 days from the time penalties are recorded by the
5 department, the department shall inform the City and County of
6 San Francisco which of its notices of delinquent violation have
7 been discharged.

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

12 *SEC. 12. Section 40244.5 is added to the Vehicle Code, to*
13 *read:*

14 *40244.5. (a) On or before January 1, 2019, the City and*
15 *County of San Francisco shall provide to the Assembly Committee*
16 *on Transportation and the Senate Committee on Transportation*
17 *and Housing a report evaluating the effectiveness of automated*
18 *enforcement of violations of Section 22526 in reducing pedestrian*
19 *injuries and fatalities.*

20 *(b) This section shall remain in effect only until January 1, 2021,*
21 *and as of that date is repealed, unless a later enacted statute, that*
22 *is enacted before January 1, 2021, deletes or extends that date.*

23 ~~SEC. 12.~~

24 *SEC. 13.* The Legislature finds and declares that a special law
25 is necessary and that a general law cannot be made applicable
26 within the meaning of Section 16 of Article IV of the California
27 Constitution because of the unique circumstances relating to
28 parking and moving violations recorded by cameras on city-owned
29 public transit vehicles in the City and County of San Francisco.