

AMENDED IN SENATE APRIL 16, 2015

**SENATE BILL**

**No. 413**

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**Introduced by Senator Wieckowski**

February 25, 2015

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An act to amend Section 640 of the Penal Code, and to amend Section 99580 of the Public Utilities Code, relating to public transit.

LEGISLATIVE COUNSEL'S DIGEST

SB 413, as amended, Wieckowski. Public transit: prohibited conduct.

Existing law makes it a crime, punishable as an ~~infraction or misdemeanor, as specified,~~ *infraction*, for a person to commit certain acts on or in a facility or vehicle of a public transportation system, including disturbing another person by loud or unreasonable ~~noise. noise or selling or peddling any goods, merchandise, property, or services of any kind whatsoever on the facilities, vehicles, or property of the public transportation system, in specified circumstances.~~

This bill would ~~restate this~~ *revise the unreasonable noise provision* so that it would apply to a person failing to comply with the warning of a transit official related to disturbing another person by loud and unreasonable noise, and also to a person playing sound equipment on or in a public transportation system facility or vehicle. ~~By revising the definition of a crime, the bill would thereby impose a state-mandated local program.~~ *The bill would also make it an infraction for a person on or in a facility or vehicle of a public transportation system to fail to yield seating reserved for an elderly or disabled person. The bill would make a 3rd or subsequent violation of the prohibition against selling or peddling goods, merchandise, property, or services, as specified, punishable as a misdemeanor.*

*The bill would also expand the definition of a facility or vehicle of a public transportation system for these purposes to include a facility or vehicle of a rail authority, whether owned or leased, as specified.*

*By expanding the definitions of existing crimes and creating new crimes, the bill would impose a state-mandated local program.*

Existing law also authorizes a public transportation agency to adopt an ordinance to impose and enforce civil administrative penalties for certain passenger misconduct, other than by minors, on or in a transit facility or vehicle in lieu of the criminal penalties otherwise applicable, with specified administrative procedures for the imposition and enforcement of the administrative penalties, including an initial review and opportunity for a subsequent administrative hearing. Existing law requires the ordinance to include the statutory provisions governing the administrative penalties.

This bill would authorize these administrative penalties to also apply to a person failing to comply with the warning of a transit official related to disturbing another person by loud and unreasonable noise, and to a person failing to yield seating reserved for an elderly or disabled person. The bill would authorize the administrative penalties to be applied to minors and would delete the requirement for the ordinance to include the statutory provisions.

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 640 of the Penal Code is amended to
- 2 read:
- 3 640. (a) (1) Any of the acts described in paragraphs (1) to (6),
- 4 inclusive, of subdivision (b) is an infraction punishable by a fine
- 5 not to exceed two hundred fifty dollars (\$250) and by community
- 6 service for a total time not to exceed 48 hours over a period not to
- 7 exceed 30 days, during a time other than during the violator's hours
- 8 of school attendance or employment. Any of the acts described in
- 9 paragraphs (1) to (3), inclusive, of subdivision (c), upon a first or

1 second violation, is an infraction punishable by a fine not to exceed  
2 two hundred fifty dollars (\$250) and by community service for a  
3 total time not to exceed 48 hours over a period not to exceed 30  
4 days, during a time other than during the violator's hours of school  
5 attendance or employment. A third or subsequent violation of any  
6 of the acts described in paragraphs (1) to (3), inclusive, of  
7 subdivision (c) is a misdemeanor punishable by a fine of not more  
8 than four hundred dollars (\$400) or by imprisonment in a county  
9 jail for a period of not more than 90 days, or by both that fine and  
10 imprisonment. Any of the acts described in subdivision (d) shall  
11 be punishable by a fine of not more than four hundred dollars  
12 (\$400), by imprisonment in a county jail for a period of not more  
13 than 90 days, or by both that fine and imprisonment.

14 (2) This section shall apply only to acts committed on or in a  
15 facility or vehicle of a public transportation system.

16 (b) (1) Eating or drinking in or on a system facility or vehicle  
17 in areas where those activities are prohibited by that system.

18 (2) Playing sound equipment on or in a system facility or  
19 vehicle, or failing to comply with the warning of a transit official  
20 related to disturbing another person by loud or unreasonable noise.

21 (3) Smoking in or on a system facility or vehicle in areas where  
22 those activities are prohibited by that system.

23 (4) Expecterating upon a system facility or vehicle.

24 (5) Skateboarding, roller skating, bicycle riding, roller blading,  
25 or operating a motorized scooter or similar device, as defined in  
26 Section 407.5 of the Vehicle Code in a system facility, vehicle, or  
27 parking structure. This paragraph does not apply to an activity that  
28 is necessary for utilization of the transit facility by a bicyclist,  
29 including, but not limited to, an activity that is necessary for  
30 parking a bicycle or transporting a bicycle aboard a transit vehicle,  
31 if that activity is conducted with the permission of the transit  
32 agency in a manner that does not interfere with the safety of the  
33 bicyclist or other patrons of the transit facility.

34 ~~(6) Selling or peddling any goods, merchandise, property, or~~  
35 ~~services of any kind whatsoever on the facilities, vehicles, or~~  
36 ~~property of the public transportation system, if the public~~  
37 ~~transportation system has prohibited those acts and neither the~~  
38 ~~public transportation system nor its duly authorized representatives~~  
39 ~~have granted written consent to engage in those acts.~~

1     (6) *Failing to yield seating reserved for an elderly or disabled*  
2 *person.*

3     (c) (1) Evasion of the payment of a fare of the system. For  
4 purposes of this section, fare evasion includes entering an enclosed  
5 area of a public transit facility beyond posted signs prohibiting  
6 entrance without obtaining valid fare, in addition to entering a  
7 transit vehicle without valid fare.

8     (2) Misuse of a transfer, pass, ticket, or token with the intent to  
9 evade the payment of a fare.

10     (3) (A) Unauthorized use of a discount ticket or failure to  
11 present, upon request from a transit system representative,  
12 acceptable proof of eligibility to use a discount ticket, in  
13 accordance with Section 99155 of the Public Utilities Code and  
14 posted system identification policies when entering or exiting a  
15 transit station or vehicle. Acceptable proof of eligibility must be  
16 clearly defined in the posting.

17     (B) In the event that an eligible discount ticket user is not in  
18 possession of acceptable proof at the time of request, any citation  
19 issued shall be held for a period of 72 hours to allow the user to  
20 produce acceptable proof. If the proof is provided, the citation  
21 shall be voided. If the proof is not produced within that time period,  
22 the citation shall be processed.

23     (4) *Selling or peddling any goods, merchandise, property, or*  
24 *services of any kind whatsoever on the facilities, vehicles, or*  
25 *property of the public transportation system, if the public*  
26 *transportation system has prohibited those acts and neither the*  
27 *public transportation system nor its duly authorized representatives*  
28 *have granted written consent to engage in those acts.*

29     (d) (1) Willfully disturbing others on or in a system facility or  
30 vehicle by engaging in boisterous or unruly behavior.

31     (2) Carrying an explosive, acid, or flammable liquid in a public  
32 transit facility or vehicle.

33     (3) Urinating or defecating in a system facility or vehicle, except  
34 in a lavatory. However, this paragraph shall not apply to a person  
35 who cannot comply with this paragraph as a result of a disability,  
36 age, or a medical condition.

37     (4) Willfully blocking the free movement of another person in  
38 a system facility or vehicle. This paragraph shall not be interpreted  
39 to affect any lawful activities permitted or First Amendment rights  
40 protected under the laws of this state or applicable federal law,

1 including, but not limited to, laws related to collective bargaining,  
2 labor relations, or labor disputes.

3 (5) Willfully tampering with, removing, displacing, injuring,  
4 or destroying any part of any facility or vehicle of a public  
5 transportation system.

6 (e) Notwithstanding subdivision (a), a public transportation  
7 agency, as defined in paragraph (4) of subdivision (c) of Section  
8 99580 of the Public Utilities Code, may enact and enforce an  
9 ordinance providing that a person who is the subject of a citation  
10 for any of the acts described in subdivision (b) of Section 99580  
11 of the Public Utilities Code on or in a facility or vehicle described  
12 in subdivision (a) for which the public transportation agency has  
13 jurisdiction shall, under the circumstances set forth by the  
14 ordinance, be afforded an opportunity to complete an administrative  
15 process that imposes only an administrative penalty enforced in a  
16 civil proceeding. The ordinance for imposing and enforcing the  
17 administrative penalty shall be governed by Chapter 8  
18 (commencing with Section 99580) of Part 11 of Division 10 of  
19 the Public Utilities Code.

20 (f) For purposes of this section, a “facility or vehicle of a public  
21 transportation system” means any of the following:

22 (1) A facility or vehicle of a public transportation system as  
23 defined by Section 99211 of the Public Utilities Code.

24 (2) A facility of, or vehicle operated by any entity subsidized  
25 by, the Department of Transportation.

26 ~~(3) A facility or vehicle of the Southern California Regional  
27 Rail Authority, whether owned or leased.~~

28 *(3) A facility or vehicle of a rail authority, whether owned or  
29 leased, including, but not limited to, any part of a railroad, or  
30 track of a railroad, or any branch or branchway, switch, turnout,  
31 bridge, viaduct, culvert, embankment, station house, or other  
32 structure or fixture, or any part thereof, attached or connected to  
33 a railroad.*

34 (4) A leased or rented facility or vehicle for which any of the  
35 entities described in paragraph (1), (2), or (3) incurs costs of  
36 cleanup, repair, or replacement as a result of any of those acts.

37 SEC. 2. Section 99580 of the Public Utilities Code is amended  
38 to read:

39 99580. (a) Pursuant to subdivision (e) of Section 640 of the  
40 Penal Code, a public transportation agency may enact and enforce

1 an ordinance to impose and enforce an administrative penalty for  
2 any of the acts described in subdivision (b).

3 (b) (1) Evasion of the payment of a fare of the system.

4 (2) Misuse of a transfer, pass, ticket, or token with the intent to  
5 evade the payment of a fare.

6 (3) Playing sound equipment on or in a system facility or  
7 vehicle, or failing to comply with the warning of a transit official  
8 related to disturbing another person by loud or unreasonable noise.

9 (4) Smoking, eating, or drinking in or on a system facility or  
10 vehicle in those areas where those activities are prohibited by that  
11 system.

12 (5) Expectorating upon a system facility or vehicle.

13 (6) Willfully disturbing others on or in a system facility or  
14 vehicle by engaging in boisterous or unruly behavior.

15 (7) Carrying an explosive or acid, flammable liquid, or toxic or  
16 hazardous material in a system facility or vehicle.

17 (8) Urinating or defecating in a system facility or vehicle, except  
18 in a lavatory. However, this paragraph shall not apply to a person  
19 who cannot comply with this paragraph as a result of a disability,  
20 age, or a medical condition.

21 (9) (A) Willfully blocking the free movement of another person  
22 in a system facility or vehicle.

23 (B) This paragraph shall not be interpreted to affect any lawful  
24 activities permitted or First Amendment rights protected under the  
25 laws of this state or applicable federal law, including, but not  
26 limited to, laws related to collective bargaining, labor relations,  
27 or labor disputes.

28 (10) Skateboarding, roller skating, bicycle riding, or roller  
29 blading in a system facility, including a parking structure, or in a  
30 system vehicle. This paragraph does not apply to an activity that  
31 is necessary for utilization of a system facility by a bicyclist,  
32 including, but not limited to, an activity that is necessary for  
33 parking a bicycle or transporting a bicycle aboard a system vehicle,  
34 if that activity is conducted with the permission of the agency of  
35 the system in a manner that does not interfere with the safety of  
36 the bicyclist or other patrons of the system facility.

37 (11) (A) Unauthorized use of a discount ticket or failure to  
38 present, upon request from a system representative, acceptable  
39 proof of eligibility to use a discount ticket, in accordance with  
40 Section 99155, and posted system identification policies when

1 entering or exiting a system station or vehicle. Acceptable proof  
2 of eligibility must be clearly defined in the posting.

3 (B) In the event that an eligible discount ticket user is not in  
4 possession of acceptable proof at the time of request, an issued  
5 notice of fare evasion or passenger conduct violation shall be held  
6 for a period of 72 hours to allow the user to produce acceptable  
7 proof. If the proof is provided, that notice shall be voided. If the  
8 proof is not produced within that time period, that notice shall be  
9 processed.

10 (12) Selling or peddling any goods, merchandise, property, or  
11 services of any kind whatsoever on the facilities, vehicles, or  
12 property of the public transportation system without the express  
13 written consent of the public transportation system or its duly  
14 authorized representatives.

15 (13) Failing to yield seating reserved for an elderly or disabled  
16 person.

17 (c) (1) The public transportation agency may contract with a  
18 private vendor or governmental agency for the processing of notices  
19 of fare evasion or passenger conduct violation, and notices of  
20 delinquent fare evasion or passenger conduct violation pursuant  
21 to Section 99581.

22 (2) For the purpose of this chapter, “processing agency” means  
23 either of the following:

24 (A) The agency issuing the notice of fare evasion or passenger  
25 conduct violation and the notice of delinquent fare evasion or  
26 passenger conduct violation.

27 (B) The party responsible for processing the notice of fare  
28 evasion or passenger conduct violation and the notice of delinquent  
29 violation, if a contract is entered into pursuant to paragraph (1).

30 (3) For the purpose of this chapter, “fare evasion or passenger  
31 conduct violation penalty” includes, but is not limited to, a late  
32 payment penalty, administrative fee, fine, assessment, and costs  
33 of collection as provided for in the ordinance.

34 (4) For the purpose of this chapter, “public transportation  
35 agency” shall mean a public agency that provides public  
36 transportation as defined in paragraph (1) of subdivision (f) of  
37 Section 1 of Article XIX A of the California Constitution.

38 (5) All fare evasion and passenger conduct violation penalties  
39 collected pursuant to this chapter shall be deposited in the general  
40 fund of the county in which the citation is administered.

1 (d) (1) If a fare evasion or passenger conduct violation is  
2 observed by a person authorized to enforce the ordinance, a notice  
3 of fare evasion or passenger conduct violation shall be issued. The  
4 notice shall set forth the violation, including reference to the  
5 ordinance setting forth the administrative penalty, the date of the  
6 violation, the approximate time, and the location where the  
7 violation occurred. The notice shall include a printed statement  
8 indicating the date payment is required to be made, and the  
9 procedure for contesting the notice. The notice shall be served by  
10 personal service upon the violator. The notice, or copy of the  
11 notice, shall be considered a record kept in the ordinary course of  
12 business of the issuing agency and the processing agency, and  
13 shall be prima facie evidence of the facts contained in the notice  
14 establishing a rebuttable presumption affecting the burden of  
15 producing evidence.

16 (2) When a notice of fare evasion or passenger conduct violation  
17 has been served, the person issuing the notice shall file the notice  
18 with the processing agency.

19 (3) If, after a notice of fare evasion or passenger conduct  
20 violation is issued pursuant to this section, the issuing officer  
21 determines that there is incorrect data on the notice, including, but  
22 not limited to, the date or time, the issuing officer may indicate in  
23 writing on a form attached to the original notice the necessary  
24 correction to allow for the timely entry of the corrected notice on  
25 the processing agency's data system. A copy of the correction shall  
26 be mailed to the address provided by the person cited at the time  
27 the original notice of fare evasion or passenger conduct violation  
28 was served.

29 (4) If a person contests a notice of fare evasion or passenger  
30 conduct violation, the issuing agency shall proceed in accordance  
31 with Section 99581.

32 (e) In setting the amounts of administrative penalties for the  
33 violations listed in subdivision (b), the public transportation agency  
34 shall not establish penalty amounts that exceed the maximum fine  
35 amount set forth in Section 640 of the Penal Code.

36 (f) A person who receives a notice of fare evasion or passenger  
37 conduct violation pursuant to this section shall not be subject to  
38 citation for a violation of Section 640 of the Penal Code.

39 (g) If an entity enacts an ordinance pursuant to this section it  
40 shall, both two years and five years after enactment of the

1 ordinance, report all of the following information to the Senate  
2 Committee on Transportation and Housing and the Assembly  
3 Committee on Transportation:

4 (1) A description of the ordinance, including the circumstances  
5 under which an alleged violator is afforded the opportunity to  
6 complete the administrative process.

7 (2) The amount of the administrative penalties.

8 (3) The number and types of citations administered pursuant to  
9 the ordinance.

10 (4) To the extent available, a comparison of the number and  
11 types of citations administered pursuant to the ordinance with the  
12 number and types of citations issued for similar offenses and  
13 administered through the courts both in the two years prior to the  
14 ordinance and, if any, since enactment of the ordinance.

15 (5) A discussion of the effect of the ordinance on passenger  
16 behavior.

17 (6) A discussion of the effect of the ordinance on revenues to  
18 the entity described in subdivision (a) and, in consultation with  
19 the superior courts, the cost savings to the county courts. The  
20 superior courts are encouraged to collaborate on and provide data  
21 for this report.

22 SEC. 3. No reimbursement is required by this act pursuant to  
23 Section 6 of Article XIII B of the California Constitution because  
24 the only costs that may be incurred by a local agency or school  
25 district will be incurred because this act creates a new crime or  
26 infraction, eliminates a crime or infraction, or changes the penalty  
27 for a crime or infraction, within the meaning of Section 17556 of  
28 the Government Code, or changes the definition of a crime within  
29 the meaning of Section 6 of Article XIII B of the California  
30 Constitution.

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