

AMENDED IN SENATE MAY 10, 1995

AMENDED IN SENATE APRIL 18, 1995

SENATE BILL

No. 833

Introduced by Senator Kopp

February 23, 1995

An act to amend Sections 210, 14602.6, 22451, 40000.11, and 40518 of, and to add Section 21455.5 to, the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 833, as amended, Kopp. Vehicles: crimes: enforcement.

(1) Existing law authorizes the equipping, by governmental agencies, in cooperation with law enforcement agencies, of automated rail crossing enforcement systems, as defined, provides a special written, mailed notice to appear procedure in connection with certain alleged violations recorded by an automated rail crossing enforcement system, and limits the availability of photographic records to the purposes of the law.

This bill would expressly apply the above and its related procedures to all places where a driver is required to respond to an official traffic control signal showing different colored lights. The bill would rename the automated rail crossing enforcement system the automated enforcement system.

(2) Existing law authorizes a peace officer to arrest a person and cause the removal and seizure of the person's

vehicle when the officer has determined that the person was driving the vehicle while the person's driving privilege was suspended or revoked or without ever having been issued a driver's license. A vehicle so impounded is required to be impounded for 30 days.

This bill would authorize the officer to remove and seize the vehicle, without the necessity of arresting the person, when the vehicle in the above situation has been involved in a traffic collision.

The bill would prescribe procedures to be followed for the release of the vehicle prior to the end of 30 day's impoundment, including a requirement that a legal owner who has obtained possession of the impounded vehicle not relinquish the vehicle to the registered owner until after the termination of the ~~30-day~~ 30-day impoundment period and until after the registered owner has presented his valid driver's license or valid temporary driver's license to the legal owner. Because a violation of that requirement would be an infraction, the bill would impose a state-mandated local program by creating a new crime.

(3) Existing law specifies that a violation of certain provisions relating to vehicles are misdemeanors and not infractions.

This bill would make a violation of specified provisions relating to driving with a suspended or revoked driver's license a misdemeanor, thereby imposing a state-mandated local program.

(4) 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.

(5) The bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.



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

SECTION 1. Section 210 of the Vehicle Code is amended to read:

210. An “automated enforcement system” is any system operated by a governmental agency, in cooperation with a law enforcement agency, that photographically records a driver’s responses to a rail or rail transit signal or crossing gate, or both, or to an official traffic control signal described in Section 21450, and is designed to obtain a clear photograph of a vehicle’s license plate and the driver of the vehicle.

SEC. 2. Section 14602.6 of the Vehicle Code is amended to read:

14602.6. (a) Whenever a peace officer determines that a person was driving a vehicle while his or her driving privilege was suspended or revoked or without ever having been issued a license, the peace officer may either immediately arrest that person and cause the removal and seizure of that vehicle or, if the vehicle is involved in a traffic collision, cause the removal and seizure of the vehicle, without the necessity of arresting the person in accordance with Chapter 10 (commencing with Section 22650) of Division 11. A vehicle so impounded shall be impounded for 30 days, *and any lien sale for the vehicle shall be conducted only on or after the 15th day after the end of that impoundment period.*

(b) The registered and legal owner of a vehicle that is removed and seized under subdivision (a) or their agents shall be provided the opportunity for a storage hearing to determine the validity of, or consider any mitigating circumstances attendant to, the storage, in accordance with Section 22852.

(c) Any period in which a vehicle is subjected to storage under this section shall be included as part of the period of impoundment ordered by the court under subdivision (a) of Section 14602.5.

(d) (1) An impounding agency shall release a vehicle to the registered owner or his or her agent prior to the

1 end of 30 day's impoundment under any of the following
2 circumstances:

3 (A) When the vehicle is a stolen vehicle.

4 (B) When the vehicle is subject to bailment and is
5 driven by an unlicensed employee of a business
6 establishment, including a parking service or repair
7 garage.

8 (C) When the license of the driver was suspended or
9 revoked for an offense other than those included in
10 Article 2 (commencing with Section 13200) of Chapter 2
11 of Division 6 or Article 3 (commencing with Section
12 13350) of Chapter 2 of Division 6.

13 (2) No vehicle shall be released pursuant to this
14 subdivision, except upon presentation of the registered
15 owner's or agent's currently valid driver's license to
16 operate the vehicle and proof of current vehicle
17 registration, or upon order of a court.

18 (e) The registered owner or his or her agent is
19 responsible for all towing and storage charges related to
20 the impoundment, and any administrative charges
21 authorized under Section 22850.5.

22 (f) A vehicle removed and seized under subdivision
23 (a) shall be released to the legal owner of the vehicle
24 prior to the end of 30 day's impoundment if all of the
25 following conditions are met:

26 (1) The legal owner is a motor vehicle dealer, bank,
27 ~~other financial institution, or rental car agency licensed~~
28 *credit union, acceptance corporation, or other licensed*
29 *financial institution, or a rental car agency licensed* to do
30 business in this state.

31 (2) The legal owner pays all towing and storage fees
32 related to the seizure of the vehicle.

33 (3) The legal owner presents foreclosure or
34 repossession documents for the vehicle.

35 (g) (1) A legal owner that obtains release of the
36 vehicle pursuant to subdivision (f) shall not release the
37 vehicle to the registered owner of the vehicle or any
38 agents of the registered owner until after the termination
39 of the 30-day impoundment period.

(2) The legal owner shall not relinquish the vehicle to the registered owner until the registered owner or that owner's agent presents his or her valid driver's license or valid temporary driver's license to the legal owner. The legal owner shall make every reasonable effort to ensure that the license presented is valid.

(3) Prior to relinquishing the vehicle, the legal owner may require the registered owner to pay all towing and storage charges related to the impoundment and any administrative charges authorized under Section 22850.5 that were incurred by the legal owner in connection with obtaining custody of the vehicle.

(h) (1) The legal owner of a rental vehicle that was seized under this section may continue to rent the vehicle upon recovery of the vehicle. However, the legal owner shall not rent another vehicle to the driver of the vehicle that was seized until 30 days after the date that the vehicle was seized.

(2) The legal owner of a rental vehicle may require the driver to pay all towing and storage charges related to the impoundment and any administrative charges authorized under Section 22850.5 that were incurred by the legal owner in connection with obtaining custody of the vehicle.

(i) Notwithstanding any other provision of this section, the registered owner and not the legal owner shall remain responsible for any towing and storage charges related to the impoundment, any administrative charges authorized under Section 22850.5, and any parking fines, penalties, and administrative fees incurred by the registered owner.

SEC. 3. Section 21455.5 is added to the Vehicle Code, to read:

21455.5. (a) The limit line, the intersection, or other places designated in Section 21455 where a driver is required to stop may be equipped with an automated enforcement system if the system is identified by signs clearly indicating the system's presence and is visible to traffic approaching from all directions.

1 Only a governmental agency, in cooperation with a law
2 enforcement agency, may operate an automated
3 enforcement system.

4 (b) Notwithstanding Section 6253 of the Government
5 Code, or any other provision of law, photographic records
6 made by an automated enforcement system shall be
7 confidential, and shall be made available only to
8 governmental agencies and law enforcement agencies
9 for the purposes of this article.

10 SEC. 4. Section 22451 of the Vehicle Code is amended
11 to read:

12 22451. (a) The driver of any vehicle approaching a
13 railroad or rail transit grade crossing shall stop not less
14 than 15 feet from the nearest rail and shall not proceed
15 until he or she can do so safely, whenever the following
16 conditions exist:

17 (1) A clearly visible electric or mechanical signal
18 device or a flagman gives warning of the approach or
19 passage of a train or car.

20 (2) An approaching train or car is plainly visible or is
21 emitting an audible signal and, by reason of its speed or
22 nearness, is an immediate hazard.

23 (b) No driver shall proceed through, around, or under
24 any railroad or rail transit crossing gate while the gate is
25 closed.

26 (c) Whenever a railroad or rail transit crossing is
27 equipped with an automated enforcement system, a
28 notice of a violation of this section is subject to the
29 procedures provided in Section 40518.

30 SEC. 5. Section 40000.11 of the Vehicle Code is
31 amended to read:

32 40000.11. A violation of any of the following provisions
33 is a misdemeanor, and not an infraction:

34 (a) Division 5 (commencing with Section 11100),
35 relating to occupational licensing and business
36 regulations.

37 (b) Section 12500, subdivision (a), relating to
38 unlicensed drivers.

39 (c) Section 12515, subdivision (b), relating to persons
40 under 21 years of age driving, and the employment of

1 those persons to drive, vehicles engaged in interstate
2 commerce or transporting hazardous substances or
3 wastes.

4 (d) Section 12517, relating to a special driver's
5 certificate to operate a schoolbus or school pupil activity
6 bus.

7 (e) Section 12519, subdivision (a), relating to a special
8 driver's certificate to operate a farm labor vehicle.

9 (f) Section 12520, relating to a special driver's
10 certificate to operate a tow truck.

11 (g) Section 12804, subdivision (d), relating to medical
12 certificates.

13 (h) Section 12951, subdivision (b), relating to refusal
14 to display license.

15 (i) Section 13004, relating to unlawful use of
16 identification card.

17 (j) Section 13004.1, relating to identification
18 documents.

19 (k) Section 14601, relating to driving with a suspended
20 or revoked driver's license.

21 (l) Section 14601.1, relating to driving with a
22 suspended or revoked driver's license.

23 (m) Section 14601.2, relating to driving with a
24 suspended or revoked driver's license.

25 (n) Section 14604, relating to unlawful use of a vehicle.

26 (o) Section 14610, relating to unlawful use of driver's
27 license.

28 (p) Section 14610.1, relating to identification
29 documents.

30 (q) Section 15501, relating to use of false or fraudulent
31 license by a minor.

32 SEC. 6. Section 40518 of the Vehicle Code is amended
33 to read:

34 40518. (a) Whenever a written notice to appear has
35 been issued by a peace officer or by a qualified employee
36 of a law enforcement agency on a form approved by the
37 Judicial Council for an alleged violation of Section 22451,
38 or, based on an alleged violation of Section 21453, 21455,
39 or 22101 recorded by an automated enforcement system
40 pursuant to Section 21455.5 or 22451, and delivered by

1 mail within 30 days of the alleged violation to the current
2 address of the registered owner of the vehicle on file with
3 the department, with a certificate of mailing obtained as
4 evidence of service, an exact and legible duplicate copy
5 of the notice when filed with the magistrate shall
6 constitute a complaint to which the defendant may enter
7 a plea. Preparation and delivery of a notice to appear
8 pursuant to this section is not an arrest.

9 (b) A notice to appear shall contain the name and
10 address of the person, the license plate number of the
11 person's vehicle, the offense charged, and the time and
12 place when, and where, the person may appear in court
13 or before a person authorized to receive a deposit of bail.
14 The time specified shall be at least 10 days after the notice
15 to appear is delivered.

16 SEC. 7. No reimbursement is required by this act
17 pursuant to Section 6 of Article XIII B of the California
18 Constitution because the only costs that may be incurred
19 by a local agency or school district will be incurred
20 because this act creates a new crime or infraction,
21 eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section
23 17556 of the Government Code, or changes the definition
24 of a crime within the meaning of Section 6 of Article
25 XIII B of the California Constitution.

26 Notwithstanding Section 17580 of the Government
27 Code, unless otherwise specified, the provisions of this act
28 shall become operative on the same date that the act
29 takes effect pursuant to the California Constitution.

30 SEC. 8. This act is an urgency statute necessary for the
31 immediate preservation of the public peace, health, or
32 safety within the meaning of Article IV of the
33 Constitution and shall go into immediate effect. The facts
34 constituting the necessity are:

35 In order to help ensure, at the earliest possible time, the
36 protection of the public by putting into effect as quickly
37 as possible various provisions relating to motor vehicles,
38 it is necessary that this act take effect immediately.

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