

AMENDED IN SENATE MAY 25, 1995

AMENDED IN SENATE MAY 18, 1995

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, 14602.6 and 40000.11 of~~, to amend, repeal, and add Sections 210, 22451, and 40518 of, and to add and repeal Section 21455.5 of the Vehicle Code, relating to vehicles.

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. *These changes would be in effect only until January 1, 1999, and as of that date would be repealed.*

(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 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.



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 210 of the Vehicle Code is
2 amended to read:

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

11 ~~SEC. 2.—~~

12 *This section shall remain in effect only until January 1,*
13 *1999, and as of that date is repealed, unless a later enacted*
14 *statute, which is enacted before January 1, 1999, deletes*
15 *or extends that date.*

16 SEC. 2. Section 210 is added to the Vehicle Code, to
17 read:

18 210. An “automated rail crossing enforcement
19 system” is any system operated by a governmental
20 agency, in cooperation with a law enforcement agency,
21 that photographically records a driver’s responses to a rail
22 or rail transit signal or crossing gate, or both, and is
23 designed to obtain a clear photograph of a vehicle’s
24 license plate and the driver of the vehicle.

25 *This section shall become operative on January 1, 1999.*

26 SEC. 3. Section 14602.6 of the Vehicle Code is
27 amended to read:

28 14602.6. (a) Whenever a peace officer determines
29 that a person was driving a vehicle while his or her driving
30 privilege was suspended or revoked or without ever
31 having been issued a license, the peace officer may either
32 immediately arrest that person and cause the removal
33 and seizure of that vehicle or, if the vehicle is involved in
34 a traffic collision, cause the removal and seizure of the
35 vehicle, without the necessity of arresting the person in

1 accordance with Chapter 10 (commencing with Section
2 22650) of Division 11. A vehicle so impounded shall be
3 impounded for 30 days, and any lien sale for the vehicle
4 shall be conducted only on or after the 15th day after the
5 end of that impoundment period.

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

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

16 (d) (1) An impounding agency shall release a vehicle
17 to the registered owner or his or her agent prior to the
18 end of 30 day's impoundment under any of the following
19 circumstances:

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

21 (B) When the vehicle is subject to bailment and is
22 driven by an unlicensed employee of a business
23 establishment, including a parking service or repair
24 garage.

25 (C) When the license of the driver was suspended or
26 revoked for an offense other than those included in
27 Article 2 (commencing with Section 13200) of Chapter 2
28 of Division 6 or Article 3 (commencing with Section
29 13350) of Chapter 2 of Division 6.

30 (2) No vehicle shall be released pursuant to this
31 subdivision, except upon presentation of the registered
32 owner's or agent's currently valid driver's license to
33 operate the vehicle and proof of current vehicle
34 registration, or upon order of a court.

35 (e) The registered owner or his or her agent is
36 responsible for all towing and storage charges related to
37 the impoundment, and any administrative charges
38 authorized under Section 22850.5.

39 (f) A vehicle removed and seized under subdivision
40 (a) shall be released to the legal owner of the vehicle

1 prior to the end of 30 day's impoundment if all of the
2 following conditions are met:

3 (1) The legal owner is a motor vehicle dealer, bank,
4 credit union, acceptance corporation, or other licensed
5 financial institution, or a rental car agency licensed to do
6 business in this state.

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

9 (3) The legal owner presents foreclosure or
10 repossession documents for the vehicle.

11 (g) (1) A legal owner that obtains release of the
12 vehicle pursuant to subdivision (f) shall not release the
13 vehicle to the registered owner of the vehicle or any
14 agents of the registered owner until after the termination
15 of the 30-day impoundment period.

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

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

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

34 (2) The legal owner of a rental vehicle may require the
35 driver to pay all towing and storage charges related to the
36 impoundment and any administrative charges
37 authorized under Section 22850.5 that were incurred by
38 the legal owner in connection with obtaining custody of
39 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.~~

SEC. 4. 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.

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

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

~~SEC. 4.—~~

(c) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1999, deletes or extends that date.

SEC. 5. Section 22451 of the Vehicle Code is amended to read:

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

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

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

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

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

~~SEC. 5.—~~

(d) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1999, deletes or extends that date.

SEC. 6. Section 22451 is added to the Vehicle Code, to read:

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

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

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

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

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

(d) This section shall become operative on January 1, 1999.

SEC. 7. Section 40000.11 of the Vehicle Code is amended to read:

1 40000.11. A violation of any of the following provisions
2 is a misdemeanor, and not an infraction:
3 (a) Division 5 (commencing with Section 11100),
4 relating to occupational licensing and business
5 regulations.
6 (b) Section 12500, subdivision (a), relating to
7 unlicensed drivers.
8 (c) Section 12515, subdivision (b), relating to persons
9 under 21 years of age driving, and the employment of
10 those persons to drive, vehicles engaged in interstate
11 commerce or transporting hazardous substances or
12 wastes.
13 (d) Section 12517, relating to a special driver's
14 certificate to operate a schoolbus or school pupil activity
15 bus.
16 (e) Section 12519, subdivision (a), relating to a special
17 driver's certificate to operate a farm labor vehicle.
18 (f) Section 12520, relating to a special driver's
19 certificate to operate a tow truck.
20 (g) Section 12804, subdivision (d), relating to medical
21 certificates.
22 (h) Section 12951, subdivision (b), relating to refusal
23 to display license.
24 (i) Section 13004, relating to unlawful use of
25 identification card.
26 (j) Section 13004.1, relating to identification
27 documents.
28 (k) Section 14601, relating to driving with a suspended
29 or revoked driver's license.
30 (l) Section 14601.1, relating to driving with a
31 suspended or revoked driver's license.
32 (m) Section 14601.2, relating to driving with a
33 suspended or revoked driver's license.
34 (n) Section 14604, relating to unlawful use of a vehicle.
35 (o) Section 14610, relating to unlawful use of driver's
36 license.
37 (p) Section 14610.1, relating to identification
38 documents.
39 (q) Section 15501, relating to use of false or fraudulent
40 license by a minor.



~~SEC. 6.~~

SEC. 8. 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 enforcement system pursuant to Section 21455.5 or 22451, and delivered by mail within 30 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) A notice to appear shall contain the name and address of the person, the license plate number of the person's vehicle, the offense charged, 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.

~~SEC. 7.—~~

(c) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1999, deletes or extends that date.

SEC. 9. Section 40518 is added to the Vehicle Code, 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, with respect to a rail crossing, of Section 21453 or 22101 based on an alleged violation recorded by an automated rail crossing enforcement system, and delivered by mail within 30 days of the alleged violation to the current

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

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

15 (c) This section shall become operative on January 1,
16 1999.

17 SEC. 10. No reimbursement is required by this act
18 pursuant to Section 6 of Article XIII B of the California
19 Constitution because the only costs that may be incurred
20 by a local agency or school district will be incurred
21 because this act creates a new crime or infraction,
22 eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section
24 17556 of the Government Code, or changes the definition
25 of a crime within the meaning of Section 6 of Article
26 XIII B of the California Constitution.

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