

AMENDED IN ASSEMBLY SEPTEMBER 12, 1995

AMENDED IN ASSEMBLY AUGUST 30, 1995

AMENDED IN ASSEMBLY JULY 15, 1995

AMENDED IN ASSEMBLY JUNE 22, 1995

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

(Coauthors: Assembly Members Katz and Richter)

February 23, 1995

An act to amend Sections 14602.6, 14604, and 40000.11 of, ~~to add Section 5002.9 to~~, 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: license plates.

(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 and revised 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 These changes would be in effect only until January 1, 1999, and as of that date would be repealed.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 the Department of Motor Vehicles to issue regular series license plates for certain motor vehicles that are owned by the state.~~

~~This bill would allow a justice of the California Supreme Court who is regularly issued a state-owned vehicle to apply to the department for regular series license plates for that vehicle.~~

~~(3) 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 a 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.



~~(4)~~

(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.

~~(5)~~

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12 1999, and as of that date is repealed, unless a later enacted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

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

17 210. An "automated rail crossing enforcement
18 system" is any system operated by a governmental
19 agency, in cooperation with a law enforcement agency,
20 that photographically records a driver's responses to a rail

1 or rail transit signal or crossing gate, or both, and is
2 designed to obtain a clear photograph of a vehicle's
3 license plate and the driver of the vehicle.

4 This section shall become operative on January 1, 1999.

5 ~~SEC. 2.5. Section 5002.9 is added to the Vehicle Code,~~
6 ~~to read:~~

7 ~~5002.9. (a) Any justice of the Supreme Court who is~~
8 ~~regularly issued a state-owned vehicle may apply to the~~
9 ~~department for regular series license plates for that~~
10 ~~vehicle.~~

11 ~~(b) Regular series license plates issued pursuant to~~
12 ~~subdivision (a) shall be surrendered to the department~~
13 ~~upon the reassignment of the vehicle.~~

14 SEC. 3. Section 14602.6 of the Vehicle Code is
15 amended to read:

16 14602.6. (a) Whenever a peace officer determines
17 that a person was driving a vehicle while his or her driving
18 privilege was suspended or revoked or without ever
19 having been issued a license, the peace officer may either
20 immediately arrest that person and cause the removal
21 and seizure of that vehicle or, if the vehicle is involved in
22 a traffic collision, cause the removal and seizure of the
23 vehicle, without the necessity of arresting the person in
24 accordance with Chapter 10 (commencing with Section
25 22650) of Division 11. A vehicle so impounded shall be
26 impounded for 30 days.

27 The impounding agency, within two working days of
28 impoundment, shall send a notice by certified mail,
29 return receipt requested, to the legal owner of the
30 vehicle, at the address obtained from the department,
31 informing the owner that the vehicle has been
32 impounded. Failure to notify the legal owner within two
33 working days shall prohibit the impounding agency from
34 charging for more than 15 days' impoundment when the
35 legal owner redeems the impounded vehicle.

36 (b) The registered and legal owner of a vehicle that is
37 removed and seized under subdivision (a) or their agents
38 shall be provided the opportunity for a storage hearing to
39 determine the validity of, or consider any mitigating

1 circumstances attendant to, the storage, in accordance
2 with Section 22852.

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

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

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

12 (B) When the vehicle is subject to bailment and is
13 driven by an unlicensed employee of a business
14 establishment, including a parking service or repair
15 garage.

16 (C) When the license of the driver was suspended or
17 revoked for an offense other than those included in
18 Article 2 (commencing with Section 13200) of Chapter 2
19 of Division 6 or Article 3 (commencing with Section
20 13350) of Chapter 2 of Division 6.

21 (2) No vehicle shall be released pursuant to this
22 subdivision, except upon presentation of the registered
23 owner's or agent's currently valid driver's license to
24 operate the vehicle and proof of current vehicle
25 registration, or upon order of a court.

26 (e) The registered owner or his or her agent is
27 responsible for all towing and storage charges related to
28 the impoundment, and any administrative charges
29 authorized under Section 22850.5.

30 (f) A vehicle removed and seized under subdivision
31 (a) shall be released to the legal owner of the vehicle or
32 the legal owner's agent prior to the end of 30 day's
33 impoundment if all of the following conditions are met:

34 (1) The legal owner is a motor vehicle dealer, bank,
35 credit union, acceptance corporation, or other licensed
36 financial institution legally operating in this state or is
37 another person, not the registered owner, holding a
38 security interest in the vehicle.

39 (2) The legal owner or the legal owner's agent pays all
40 towing and storage fees related to the seizure of the

1 vehicle. No lien sale processing fees shall be charged to
2 the legal owner who redeems the vehicle prior to the
3 fifteenth day of impoundment.

4 (3) The legal owner or the legal owner's agent
5 presents foreclosure documents or an affidavit of
6 repossession for the vehicle.

7 (g) (1) A legal owner or the legal owner's agent that
8 obtains release of the vehicle pursuant to subdivision (f)
9 shall not release the vehicle to the registered owner of the
10 vehicle or any agents of the registered owner, unless the
11 registered owner is a rental car agency, until after the
12 termination of the 30-day impoundment period.

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

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

27 (h) (1) A vehicle removed and seized under
28 subdivision (a) shall be released to a rental car agency
29 prior to the end of 30 days' impoundment if the agency
30 is either the legal owner or registered owner of the
31 vehicle and the agency pays all towing and storage fees
32 related to the seizure of the vehicle.

33 (2) The owner of a rental vehicle that was seized
34 under this section may continue to rent the vehicle upon
35 recovery of the vehicle. However, the rental car agency
36 shall not rent another vehicle to the driver of the vehicle
37 that was seized until 30 days after the date that the vehicle
38 was seized.

39 (3) The rental car agency may require the person to
40 whom the vehicle was rented to pay all towing and

1 storage charges related to the impoundment and any
2 administrative charges authorized under Section 22850.5
3 that were incurred by the rental car agency in connection
4 with obtaining custody of the vehicle.

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

12 SEC. 3.5. Section 14604 of the Vehicle Code is
13 amended to read:

14 14604. (a) No owner of a motor vehicle may
15 knowingly allow another person to drive the vehicle upon
16 a highway unless the owner determines that the person
17 possesses a valid driver's license that authorizes the
18 person to operate the vehicle. For the purposes of this
19 section, an owner is required only to make a reasonable
20 effort or inquiry to determine whether the prospective
21 driver possesses a valid driver's license before allowing
22 him or her to operate the owner's vehicle. An owner is not
23 required to inquire of the department whether the
24 prospective driver possesses a valid driver's license.

25 (b) A rental company is deemed to be in compliance
26 with subdivision (a) if the company rents the vehicle in
27 accordance with Sections 14608 and 14609.

28 SEC. 4. Section 21455.5 is added to the Vehicle Code,
29 to read:

30 21455.5. (a) The limit line, the intersection, or other
31 places designated in Section 21455 where a driver is
32 required to stop may be equipped with an automated
33 enforcement system if the system is identified by signs,
34 clearly indicating the system's presence, visible to traffic
35 approaching from all directions, or if signs are posted at
36 all major entrances to the city, including, at a minimum,
37 freeways, bridges, and state highway routes.

38 Any city utilizing an automated traffic enforcement
39 system at intersections shall, prior to issuing citations,
40 commence a program to issue only warning notices for 30

1 days. The local jurisdiction shall also make a public
2 announcement of the automated traffic enforcement
3 system at least 30 days prior to the commencement of the
4 enforcement program.

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

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

14 (c) Notwithstanding subdivision (b), the registered
15 owner or any individual identified by the registered
16 owner as the driver of the vehicle at the time of the
17 alleged violation shall be permitted to review the
18 photographic evidence of the alleged violation.

19 (d) This section shall remain in effect only until
20 January 1, 1999, and as of that date is repealed, unless a
21 later enacted statute, which is enacted before January 1,
22 1999, deletes or extends that date.

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

25 22451. (a) The driver of any vehicle approaching a
26 railroad or rail transit grade crossing shall stop not less
27 than 15 feet from the nearest rail and shall not proceed
28 until he or she can do so safely, whenever the following
29 conditions exist:

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

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

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

39 (c) Whenever a railroad or rail transit crossing is
40 equipped with an automated enforcement system, a

1 notice of a violation of this section is subject to the
2 procedures provided in Section 40518.

3 (d) This section shall remain in effect only until
4 January 1, 1999, and as of that date is repealed, unless a
5 later enacted statute, which is enacted before January 1,
6 1999, deletes or extends that date.

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

9 22451. (a) The driver of any vehicle approaching a
10 railroad or rail transit grade crossing shall stop not less
11 than 15 feet from the nearest rail and shall not proceed
12 until he or she can do so safely, whenever the following
13 conditions exist:

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

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

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

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

27 (d) This section shall become operative on January 1,
28 1999.

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

31 40000.11. A violation of any of the following provisions
32 is a misdemeanor, and not an infraction:

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

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

38 (c) Section 12515, subdivision (b), relating to persons
39 under 21 years of age driving, and the employment of
40 those persons to drive, vehicles engaged in interstate

1 commerce or transporting hazardous substances or
2 wastes.

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

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

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

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

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

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

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

18 (k) Sections 14601, 14601.1, 14601.2, and 14601.5,
19 relating to driving with a suspended or revoked driver's
20 license.

21 (l) Section 14604, relating to unlawful use of a vehicle.

22 (m) Section 14610, relating to unlawful use of a driver's
23 license.

24 (n) Section 14610.1, relating to identification
25 documents.

26 (o) Section 15501, relating to use of false or fraudulent
27 license by a minor.

28 SEC. 8. Section 40518 of the Vehicle Code is amended
29 to read:

30 40518. (a) Whenever a written notice to appear has
31 been issued by a peace officer or by a qualified employee
32 of a law enforcement agency on a form approved by the
33 Judicial Council for an alleged violation of Section 22451,
34 or, based on an alleged violation of Section 21453, 21455,
35 or 22101 recorded by an automated enforcement system
36 pursuant to Section 21455.5 or 22451, and delivered by
37 mail within 15 days of the alleged violation to the current
38 address of the registered owner of the vehicle on file with
39 the department, with a certificate of mailing obtained as
40 evidence of service, an exact and legible duplicate copy

1 of the notice when filed with the magistrate shall
2 constitute a complaint to which the defendant may enter
3 a plea. Preparation and delivery of a notice to appear
4 pursuant to this section is not an arrest.

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

13 (c) This section shall remain in effect only until
14 January 1, 1999, and as of that date is repealed, unless a
15 later enacted statute, which is enacted before January 1,
16 1999, deletes or extends that date.

17 SEC. 9. Section 40518 is added to the Vehicle Code, to
18 read:

19 40518. (a) Whenever a written notice to appear has
20 been issued by a peace officer or by a qualified employee
21 of a law enforcement agency on a form approved by the
22 Judicial Council for an alleged violation of Section 22451,
23 or, with respect to a rail crossing, of Section 21453 or 22101
24 based on an alleged violation recorded by an automated
25 rail crossing enforcement system, and delivered by mail
26 within 30 days of the alleged violation to the current
27 address of the registered owner of the vehicle on file with
28 the department, with a certificate of mailing obtained as
29 evidence of service, an exact and legible duplicate copy
30 of the notice when filed with the magistrate shall
31 constitute a complaint to which the defendant may enter
32 a plea. Preparation and delivery of a notice to appear
33 pursuant to this section is not an arrest.

34 (b) A notice to appear shall contain the name and
35 address of the person, the license plate number of the
36 person's vehicle, the offense charged, and the time and
37 place when, and where, the person may appear in court
38 or before a person authorized to receive a deposit of bail.
39 The time specified shall be at least 10 days after the notice
40 to appear is delivered.

1 (c) This section shall become operative on January 1,
2 1999.

3 SEC. 10. No reimbursement is required by this act
4 pursuant to Section 6 of Article XIII B of the California
5 Constitution because the only costs that may be incurred
6 by a local agency or school district will be incurred
7 because this act creates a new crime or infraction,
8 eliminates a crime or infraction, or changes the penalty
9 for a crime or infraction, within the meaning of Section
10 17556 of the Government Code, or changes the definition
11 of a crime within the meaning of Section 6 of Article
12 XIII B of the California Constitution.

13 Notwithstanding Section 17580 of the Government
14 Code, unless otherwise specified, the provisions of this act
15 shall become operative on the same date that the act
16 takes effect pursuant to the California Constitution.

