

Senate Bill No. 833

Passed the Senate September 15, 1995

Secretary of the Senate

Passed the Assembly September 14, 1995

Chief Clerk of the Assembly

This bill was received by the Governor this ____ day
of _____, 1995, at ____ o'clock __M.

Private Secretary of the Governor



CHAPTER ____

An act to amend Sections 14602.6, 14604, 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, 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 These changes would be in effect only until January 1, 1999, and as of that date would be repealed.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 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.

(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.

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.

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

210. An “automated rail crossing 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, and is designed to obtain a clear photograph of a vehicle’s license plate and the driver of the vehicle.

This section shall become operative on January 1, 1999.

SEC. 3. 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.

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

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

(A) When the vehicle is a stolen vehicle.

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

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

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

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

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

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

(2) The legal owner or the legal owner's agent pays all towing and storage fees related to the seizure of the vehicle. No lien sale processing fees shall be charged to



the legal owner who redeems the vehicle prior to the fifteenth day of impoundment.

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

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

(2) The legal owner or the legal owner's agent 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 or the legal owner's agent. The legal owner or the legal owner's agent 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) A vehicle removed and seized under subdivision (a) shall be released to a rental car agency prior to the end of 30 days' impoundment if the agency is either the legal owner or registered owner of the vehicle and the agency pays all towing and storage fees related to the seizure of the vehicle.

(2) The owner of a rental vehicle that was seized under this section may continue to rent the vehicle upon recovery of the vehicle. However, the rental car agency 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.

(3) The rental car agency may require the person to whom the vehicle was rented 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 rental car agency 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. 3.5. Section 14604 of the Vehicle Code is amended to read:

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

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

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, visible to traffic approaching from all directions, or if signs are posted at all major entrances to the city, including, at a minimum, freeways, bridges, and state highway routes.

Any city utilizing an automated traffic enforcement system at intersections shall, prior to issuing citations, commence a program to issue only warning notices for 30 days. The local jurisdiction shall also make a public



announcement of the automated traffic enforcement system at least 30 days prior to the commencement of the enforcement program.

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.

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

(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. 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.

(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:

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

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

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

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



commerce or transporting hazardous substances or wastes.

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

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

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

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

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

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

(j) Section 13004.1, relating to identification documents.

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

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

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

(n) Section 14610.1, relating to identification documents.

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

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 15 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 violation charged, including a description of the offense, 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.

(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 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.



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

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

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



Approved _____, 1995

Governor

