

AMENDED IN SENATE APRIL 5, 2011

AMENDED IN SENATE MARCH 22, 2011

SENATE BILL

No. 29

Introduced by Senator Simitian

December 6, 2010

An act to amend Sections 21455.5 and 40518 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 29, as amended, Simitian. Vehicles: automated traffic enforcement systems.

(1) Existing law authorizes the limit line, intersection, or other places where a driver is required to stop to be equipped with an automated enforcement system, as defined, if the system meets certain requirements. Existing law authorizes a governmental agency to contract out the operation of the system under certain circumstances, except for specified activities, that include, among other things, establishing guidelines for selection of location. A violation of the Vehicle Code is a crime.

This bill would require that those requirements include identifying the system by signs posted within 200 feet of an intersection where a system is operating. The bill would require that automated traffic enforcement systems installed as of January 1, 2012, be identified no later than January 1, 2013. The bill would require the governmental agency that operates an automated traffic enforcement system to develop uniform guidelines for specified purposes and to establish procedures to ensure compliance with those guidelines. The bill would require, for systems installed as of January 1, 2012, that a governmental agency that operates an automated traffic enforcement system establish those

guidelines by January 1, 2013. The bill would require the governmental agency to adopt a finding of fact establishing the need for the system at a specific location for reasons related to safety for those systems installed after January 1, 2012.

The bill would prohibit a governmental agency that proposes to install or operate an automated traffic enforcement system from considering revenue generation, beyond recovering its actual costs of operating the system, as a factor when considering whether or not to install or operate a system within its local jurisdiction. The bill would require the manufacturer or supplier that operates an automated traffic enforcement system, in cooperation with the governmental agency, to submit an annual report to the Judicial Council that includes specified information.

(2) Existing law provides special written, mailed notice to appear procedures in connection with certain alleged violations recorded by an automated traffic enforcement system and provides that 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 traffic violation recorded by an automated traffic enforcement system, 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 of Motor Vehicles, with a certificate of mailing obtained as evidence of service, an exact and legible duplicate copy of the notice when filed with the magistrate constitutes a complaint to which the defendant may enter a plea.

This bill would expand the information that must be included on a notice to appear. The bill would authorize the mailing of a specified courtesy notice or any other notice other than a notice to appear by the issuing agency, manufacturer, or supplier of the automated traffic enforcement system to the registered owner or the alleged violator prior to issuing a notice to appear. The bill would require that this notice contain specified information and, beginning January 1, 2013, be on a form approved by the Judicial Council, following consultation with the traffic and transportation committee of the California Peace Officers' Association. The bill would prohibit a manufacturer or supplier of an automated traffic enforcement system or the governmental agency operating the system from altering the notice to appear or any other form approved by the Judicial Council. If a form is found to have been materially altered, the bill would authorize that the citation, based on the altered form, be dismissed. The bill would also require that the

citation be dismissed if a magistrate or judge makes a finding that there are grounds for dismissal, in certain circumstances.

(3) Because it is unlawful and constitutes an infraction for any person to violate, or fail to comply with any provision of the Vehicle Code, this bill would impose a state-mandated local program by creating a new crime.

(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 21455.5 of the Vehicle Code is amended
2 to read:

3 21455.5. (a) The limit line, the intersection, or a place
4 designated in Section 21455, where a driver is required to stop,
5 may be equipped with an automated traffic enforcement system if
6 the governmental agency utilizing the system meets all of the
7 following requirements:

8 (1) Identifies the system by signs posted within 200 feet of an
9 intersection where a system is operating that clearly indicate the
10 system's presence and are visible to traffic approaching from all
11 directions in which the automated traffic enforcement system is
12 being utilized to issue citations. A governmental agency utilizing
13 such a system does not need to post signs visible to traffic
14 approaching the intersection from directions not subject to the
15 automated traffic enforcement system. Automated traffic
16 enforcement systems installed as of January 1, 2012; shall be
17 identified no later than January 1, 2013.

18 (2) If it locates the system at an intersection, and ensures that
19 the system meets the criteria specified in Section 21455.7.

20 (b) Prior to issuing citations under this section, a local
21 jurisdiction utilizing an automated traffic enforcement system shall
22 commence a program to issue only warning notices for 30 days.
23 The local jurisdiction shall also make a public announcement of

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

3 (c) Only a governmental agency, in cooperation with a law
4 enforcement agency, may operate an automated traffic enforcement
5 system. A governmental agency that operates an automated traffic
6 enforcement system shall do all of the following:

7 (1) Develop uniform guidelines for screening and issuing
8 violations and for the processing and storage of confidential
9 information, and establish procedures to ensure compliance with
10 those guidelines. For systems installed as of January 1, 2012, a
11 governmental agency that operates an automated traffic
12 enforcement system shall establish those guidelines by January 1,
13 2013.

14 (2) Perform administrative functions and day-to-day functions,
15 including, but not limited to, all of the following:

16 (A) Establishing guidelines for selection of location. Prior to
17 installing an automated traffic enforcement system after January
18 1, 2012, the governmental agency shall make and adopt a finding
19 of fact establishing that the system is needed at a specific location
20 for reasons related to safety.

21 (B) Ensuring that the equipment is regularly inspected.

22 (C) Certifying that the equipment is properly installed and
23 calibrated, and is operating properly.

24 (D) Regularly inspecting and maintaining warning signs placed
25 under paragraph (1) of subdivision (a).

26 (E) Overseeing the establishment or change of signal phases
27 and the timing thereof.

28 (F) Maintaining controls necessary to ensure that only those
29 citations that have been reviewed and approved by law enforcement
30 are delivered to violators.

31 (d) The activities listed in subdivision (c) that relate to the
32 operation of the system may be contracted out by the governmental
33 agency, if it maintains overall control and supervision of the
34 system. However, the activities listed in paragraph (1) of, and
35 subparagraphs (A), (D), (E), and (F) of paragraph (2) of,
36 subdivision (c) shall not be contracted out to the manufacturer or
37 supplier of the automated traffic enforcement system.

38 (e) (1) Notwithstanding Section 6253 of the Government Code,
39 or any other law, photographic records made by an automated
40 traffic enforcement system shall be confidential, and shall be made

1 available only to governmental agencies and law enforcement
2 agencies and only for the purposes of this article.

3 (2) Confidential information obtained from the Department of
4 Motor Vehicles for the administration or enforcement of this article
5 shall be held confidential, and shall not be used for any other
6 purpose.

7 (3) Except for court records described in Section 68152 of the
8 Government Code, the confidential records and information
9 described in paragraphs (1) and (2) may be retained for up to six
10 months from the date the information was first obtained, or until
11 final disposition of the citation, whichever date is later, after which
12 time the information shall be destroyed in a manner that will
13 preserve the confidentiality of any person included in the record
14 or information.

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

19 (g) (1) A contract between a governmental agency and a
20 manufacturer or supplier of automated traffic enforcement
21 equipment shall not include provision for the payment or
22 compensation to the manufacturer or supplier based on the number
23 of citations generated, or as a percentage of the revenue generated,
24 as a result of the use of the equipment authorized under this section.

25 (2) Paragraph (1) does not apply to a contract that was entered
26 into by a governmental agency and a manufacturer or supplier of
27 automated traffic enforcement equipment before January 1, 2004,
28 unless that contract is renewed, extended, or amended on or after
29 January 1, 2004.

30 (3) A governmental agency that proposes to install or operate
31 an automated traffic enforcement system shall not consider revenue
32 generation, beyond recovering its actual costs of operating the
33 system, as a factor when considering whether or not to install or
34 operate a system within its local jurisdiction.

35 (h) A manufacturer or supplier that operates an automated traffic
36 enforcement system pursuant to this section shall, in cooperation
37 with the governmental agency, submit an annual report to the
38 Judicial Council that includes, but is not limited to, all of the
39 following information if this information is in the possession of,
40 or readily available to, the manufacturer or supplier:

1 (1) The number of alleged violations captured by the systems
2 they operate.

3 (2) The number of citations issued by a law enforcement agency
4 based on information collected from the automated traffic
5 enforcement system.

6 (3) For citations identified in paragraph (2), the number of
7 violations that involved traveling straight through the intersection,
8 turning right, and turning left.

9 (4) The number and percentage of citations that are dismissed
10 by the court.

11 (5) The number of traffic collisions at each intersection that
12 occurred prior to, and after the installation of, the automated traffic
13 enforcement system.

14 SEC. 2. Section 40518 of the Vehicle Code is amended to read:

15 40518. (a) Whenever a written notice to appear has been issued
16 by a peace officer or by a qualified employee of a law enforcement
17 agency on a form approved by the Judicial Council for an alleged
18 violation of Section 22451, or, based on an alleged violation of
19 Section 21453, 21455, or 22101 recorded by an automated traffic
20 enforcement system pursuant to Section 21455.5 or 22451, and
21 delivered by mail within 15 days of the alleged violation to the
22 current address of the registered owner of the vehicle on file with
23 the department, with a certificate of mailing obtained as evidence
24 of service, an exact and legible duplicate copy of the notice when
25 filed with the magistrate shall constitute a complaint to which the
26 defendant may enter a plea. Preparation and delivery of a notice
27 to appear pursuant to this section is not an arrest.

28 (b) (1) A notice to appear shall contain the name and address
29 of the person, the license plate number of the person's vehicle, the
30 violation charged, including a description of the offense, and the
31 time and place when, and where, the person may appear in court
32 or before a person authorized to receive a deposit of bail. The time
33 specified shall be at least 10 days after the notice to appear is
34 delivered. If, after the notice to appear has been issued, the citing
35 peace officer or qualified employee of a law enforcement agency
36 determines that, in the interest of justice, the citation or notice
37 should be dismissed, the citing agency may recommend, in writing,
38 to the magistrate or the judge that the case be dismissed. The
39 recommendation shall cite the reasons for the recommendation
40 and be filed with the court. If the magistrate or judge makes a

1 finding that there are grounds for dismissal, the finding shall be
2 entered on the record and the infraction dismissed.

3 (2) A notice to appear shall also contain all of the following
4 information:

5 (A) The methods by which the registered owner of the vehicle
6 or the alleged violator may view and discuss with the issuing
7 agency, both by telephone and in person, the evidence used to
8 substantiate the violation.

9 (B) The contact information of the issuing agency.

10 (C) Information provided by the manufacturer or supplier of
11 the automated traffic enforcement system or the governmental
12 agency with which it contracts that clearly and conspicuously
13 identifies the manufacturer or supplier of the system.

14 (c) This section and Section 40520 do not preclude the issuing
15 agency, ~~manufacturer, or the manufacturer~~ or supplier of the
16 automated traffic enforcement system from mailing a courtesy
17 notice or any other notice other than a notice to appear to the
18 registered owner of the vehicle or the alleged violator prior to
19 issuing a notice to appear. The courtesy notice or other notice other
20 than a notice to appear shall be, beginning January 1, 2013, on a
21 form approved by the Judicial Council, following consultation
22 with the traffic and transportation committee of the California
23 Peace Officers' Association, and shall contain all of the following
24 information:

25 (1) The methods by which the registered owner of the vehicle
26 or the alleged violator may view and discuss with the issuing
27 agency, both by telephone and in person, the evidence used to
28 substantiate the violation.

29 (2) The contact information of the issuing agency.

30 (3) Information provided by the manufacturer or supplier of the
31 automated traffic enforcement system or the governmental agency
32 with which it contracts that clearly and conspicuously identifies
33 the manufacturer or supplier of the system.

34 (d) A manufacturer or supplier of an automated traffic
35 enforcement system or the governmental agency operating the
36 system shall not alter the notice to appear or any other form
37 approved by the Judicial Council. If a form is found to have been
38 materially altered, the citation based on the altered form may be
39 dismissed.

1 (e) If the issuing agency or the manufacturer or supplier of the
2 automated traffic enforcement system contacts the registered owner
3 of a vehicle prior to issuing a notice to appear in an effort to
4 determine the identity of the driver, the registered owner shall be
5 made aware, in a clear and prominent fashion, that the registered
6 owner is not required to provide the information and that failure
7 to provide the information will not result in additional
8 responsibility or liability associated with the alleged violation.

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