

AMENDED IN SENATE MAY 29, 2012

SENATE BILL

No. 1303

Introduced by Senator Simitian

February 23, 2012

An act to amend Sections 1552 and 1553 of the Evidence Code, and to amend Sections 21455.5 and 40518 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1303, 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, 2013, be identified no later than January 1, 2014. 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, 2013, that a governmental agency that operates an automated traffic enforcement system establish those

guidelines by January 1, 2014. 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, 2013.

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~~. *Existing law* 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, *that* 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~~ *notice of nonliability* 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, 2014, be on a form approved by the Judicial Council, following consultation with the traffic and transportation committee of the California Peace Officers' Association~~ *be substantively identical to the form set forth in the bill*. 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~~ *notice of nonliability*. 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) Existing law, known as the hearsay rule, provides that, at a hearing, evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter stated is inadmissible, subject to specified exceptions. Existing law provides that a printed representation of computer information, a computer program, or images stored on a video or digital medium is presumed to be an accurate representation of the computer information, computer program, or images that it purports to represent.

This bill would provide that this presumption applies to the printed representation of computer-generated information, video, or photographic images stored by an automated traffic enforcement system. The bill would expressly state that the printed representation of computer-generated information, video, or photographic images stored by an automated traffic enforcement system does not constitute an out-of-court hearsay statement by a declarant.

~~(3)~~

(4) 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)~~

(5) 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 1552 of the Evidence Code is amended
2 to read:

3 1552. (a) A printed representation of computer information
4 or a computer program is presumed to be an accurate representation
5 of the computer information or computer program that it purports
6 to represent. This presumption is a presumption affecting the

1 burden of producing evidence. If a party to an action introduces
2 evidence that a printed representation of computer information or
3 computer program is inaccurate or unreliable, the party introducing
4 the printed representation into evidence has the burden of proving,
5 by a preponderance of evidence, that the printed representation is
6 an accurate representation of the existence and content of the
7 computer information or computer program that it purports to
8 represent.

9 *(b) Subdivision (a) applies to the printed representation of*
10 *computer-generated information stored by an automated traffic*
11 *enforcement system.*

12 ~~(b)~~

13 *(c) Subdivision (a) shall not apply to computer-generated official*
14 *records certified in accordance with Section 452.5 or 1530.*

15 *SEC. 2. Section 1553 of the Evidence Code is amended to read:*

16 1553. *(a) A printed representation of images stored on a video*
17 *or digital medium is presumed to be an accurate representation of*
18 *the images it purports to represent. This presumption is a*
19 *presumption affecting the burden of producing evidence. If a party*
20 *to an action introduces evidence that a printed representation of*
21 *images stored on a video or digital medium is inaccurate or*
22 *unreliable, the party introducing the printed representation into*
23 *evidence has the burden of proving, by a preponderance of*
24 *evidence, that the printed representation is an accurate*
25 *representation of the existence and content of the images that it*
26 *purports to represent.*

27 *(b) Subdivision (a) applies to the printed representation of video*
28 *or photographic images stored by an automated traffic enforcement*
29 *system.*

30 ~~SECTION 1.~~

31 *SEC. 3. Section 21455.5 of the Vehicle Code is amended to*
32 *read:*

33 21455.5. *(a) The limit line, the intersection, or a place*
34 *designated in Section 21455, where a driver is required to stop,*
35 *may be equipped with an automated traffic enforcement system if*
36 *the governmental agency utilizing the system meets all of the*
37 *following requirements:*

38 *(1) Identifies the system by signs posted within 200 feet of an*
39 *intersection where a system is operating that clearly indicate the*
40 *system's presence and are visible to traffic approaching from all*

1 directions in which the automated traffic enforcement system is
2 being utilized to issue citations. A governmental agency utilizing
3 such a system does not need to post signs visible to traffic
4 approaching the intersection from directions not subject to the
5 automated traffic enforcement system. Automated traffic
6 enforcement systems installed as of January 1, 2013, shall be
7 identified no later than January 1, 2014.

8 (2) Locates the system at an intersection and ensures that the
9 system meets the criteria specified in Section 21455.7.

10 (b) Prior to issuing citations under this section, a local
11 jurisdiction utilizing an automated traffic enforcement system shall
12 commence a program to issue only warning notices for 30 days.
13 The local jurisdiction shall also make a public announcement of
14 the automated traffic enforcement system at least 30 days prior to
15 the commencement of the enforcement program.

16 (c) Only a governmental agency, in cooperation with a law
17 enforcement agency, may operate an automated traffic enforcement
18 system. A governmental agency that operates an automated traffic
19 enforcement system shall do all of the following:

20 (1) Develop uniform guidelines for screening and issuing
21 violations and for the processing and storage of confidential
22 information, and establish procedures to ensure compliance with
23 those guidelines. For systems installed as of January 1, 2013, a
24 governmental agency that operates an automated traffic
25 enforcement system shall establish those guidelines by January 1,
26 2014.

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

29 (A) Establishing guidelines for the selection of a location. Prior
30 to installing an automated traffic enforcement system after January
31 1, 2013, the governmental agency shall make and adopt a finding
32 of fact establishing that the system is needed at a specific location
33 for reasons related to safety.

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

35 (C) Certifying that the equipment is properly installed and
36 calibrated, and is operating properly.

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

39 (E) Overseeing the establishment or change of signal phases
40 and the timing thereof.

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

4 (d) The activities listed in subdivision (c) that relate to the
5 operation of the system may be contracted out by the governmental
6 agency, if it maintains overall control and supervision of the
7 system. However, the activities listed in paragraph (1) of, and
8 subparagraphs (A), (D), (E), and (F) of paragraph (2) of,
9 subdivision (c) shall not be contracted out to the manufacturer or
10 supplier of the automated traffic enforcement system.

11 *(e) The printed representation of computer-generated*
12 *information, video, or photographic images stored by an automated*
13 *traffic enforcement system does not constitute an out-of-court*
14 *hearsay statement by a declarant under Division 10 (commencing*
15 *with Section 1200) of the Evidence Code.*

16 ~~(e)~~

17 (f) (1) Notwithstanding Section 6253 of the Government Code,
18 or any other law, photographic records made by an automated
19 traffic enforcement system shall be confidential, and shall be made
20 available only to governmental agencies and law enforcement
21 agencies and only for the purposes of this article.

22 (2) Confidential information obtained from the Department of
23 Motor Vehicles for the administration or enforcement of this article
24 shall be held confidential, and shall not be used for any other
25 purpose.

26 (3) Except for court records described in Section 68152 of the
27 Government Code, the confidential records and information
28 described in paragraphs (1) and (2) may be retained for up to six
29 months from the date the information was first obtained, or until
30 final disposition of the citation, whichever date is later, after which
31 time the information shall be destroyed in a manner that will
32 preserve the confidentiality of any person included in the record
33 or information.

34 ~~(f)~~

35 (g) Notwithstanding subdivision ~~(e)~~ (f), the registered owner or
36 any individual identified by the registered owner as the driver of
37 the vehicle at the time of the alleged violation shall be permitted
38 to review the photographic evidence of the alleged violation.

39 ~~(g)~~

1 (h) (1) A contract between a governmental agency and a
2 manufacturer or supplier of automated traffic enforcement
3 equipment shall not include provision for the payment or
4 compensation to the manufacturer or supplier based on the number
5 of citations generated, or as a percentage of the revenue generated,
6 as a result of the use of the equipment authorized under this section.

7 (2) Paragraph (1) does not apply to a contract that was entered
8 into by a governmental agency and a manufacturer or supplier of
9 automated traffic enforcement equipment before January 1, 2004,
10 unless that contract is renewed, extended, or amended on or after
11 January 1, 2004.

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

17 ~~(h)~~

18 (i) A manufacturer or supplier that operates an automated traffic
19 enforcement system pursuant to this section shall, in cooperation
20 with the governmental agency, submit an annual report to the
21 Judicial Council that includes, but is not limited to, all of the
22 following information if this information is in the possession of,
23 or readily available to, the manufacturer or supplier:

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

26 (2) The number of citations issued by a law enforcement agency
27 based on information collected from the automated traffic
28 enforcement system.

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

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

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

37 ~~SEC. 2.~~

38 *SEC. 4.* Section 40518 of the Vehicle Code is amended to read:

39 40518. (a) Whenever a written notice to appear has been issued
40 by a peace officer or by a qualified employee of a law enforcement

1 agency on a form approved by the Judicial Council for an alleged
2 violation of Section 22451, or, based on an alleged violation of
3 Section 21453, 21455, or 22101 recorded by an automated traffic
4 enforcement system pursuant to Section 21455.5 or 22451, and
5 delivered by mail within 15 days of the alleged violation to the
6 current address of the registered owner of the vehicle on file with
7 the department, with a certificate of mailing obtained as evidence
8 of service, an exact and legible duplicate copy of the notice when
9 filed with the magistrate shall constitute a complaint to which the
10 defendant may enter a plea. Preparation and delivery of a notice
11 to appear pursuant to this section is not an arrest.

12 (b) (1) A notice to appear shall contain the name and address
13 of the person, the license plate number of the person's vehicle, the
14 violation charged, including a description of the offense, and the
15 time and place when, and where, the person may appear in court
16 or before a person authorized to receive a deposit of bail. The time
17 specified shall be at least 10 days after the notice to appear is
18 delivered. If, after the notice to appear has been issued, the citing
19 peace officer or qualified employee of a law enforcement agency
20 determines that, in the interest of justice, the citation or notice
21 should be dismissed, the citing agency may recommend, in writing,
22 to the magistrate or the judge that the case be dismissed. The
23 recommendation shall cite the reasons for the recommendation
24 and be filed with the court. If the magistrate or judge makes a
25 finding that there are grounds for dismissal, the finding shall be
26 entered on the record and the infraction dismissed.

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

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

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

34 ~~(C) If applicable, information provided by the manufacturer or~~
35 ~~supplier of the automated traffic enforcement system or the~~
36 ~~governmental agency with which it contracts that clearly and~~
37 ~~conspicuously identifies the manufacturer or supplier of the system.~~

38 ~~(e) This section and Section 40520 do not preclude the issuing~~
39 ~~agency or the manufacturer or supplier of the automated traffic~~
40 ~~enforcement system from mailing a courtesy notice or any other~~

1 notice other than a notice to appear to the registered owner of the
2 vehicle or the alleged violator prior to issuing a notice to appear.
3 The courtesy notice or other notice other than a notice to appear
4 shall be, beginning January 1, 2014, on a form approved by the
5 Judicial Council, following consultation with the traffic and
6 transportation committee of the California Peace Officers'
7 Association, and shall contain all of the following information:
8 (1) The methods by which the registered owner of the vehicle
9 or the alleged violator may view and discuss with the issuing
10 agency, both by telephone and in person, the evidence used to
11 substantiate the violation.
12 (2) The contact information of the issuing agency.
13 (3) Information provided by the manufacturer or supplier of an
14 automated traffic enforcement system or the governmental agency
15 with which it contracts that clearly and conspicuously identifies
16 the manufacturer or supplier of the system.
17 (c) (1) *This section and Section 40520 do not preclude the*
18 *issuing agency or the manufacturer or supplier of the automated*
19 *traffic enforcement system from mailing a notice of nonliability to*
20 *the registered owner of the vehicle or the alleged violator prior*
21 *to issuing a notice to appear. The notice of nonliability shall be*
22 *substantively identical to the following form:*

1 (2) *The form specified in paragraph (1) may be translated to*
2 *other languages.*

3 (d) A manufacturer or supplier of an automated traffic
4 enforcement system or the governmental agency operating the
5 system shall not alter the notice to appear or any other form
6 approved by the Judicial Council. If a form is found to have been
7 materially altered, the citation based on the altered form may be
8 dismissed.

9 ~~SEC. 3.~~

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

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21 CORRECTIONS: _____

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