

Introduced by Senator Kuehl

February 20, 2008

An act to amend, repeal, and add Section 40518 of, and to add and repeal Section 22368 of, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1325, as introduced, Kuehl. Vehicles: automated speed enforcement.

Existing law does not expressly authorize the use of photo radar from an automated enforcement system for speed enforcement purposes by any jurisdiction.

This bill would, until January 1, 2014, authorize the City of Beverly Hills to establish by ordinance a pilot project utilizing a mobile automated speed enforcement (MASE) system, as specified, for speed enforcement if specified conditions are met. The bill would require the City of Beverly Hills, if it establishes a MASE system, to submit a specified report to the Legislature on or before January 1, 2013. The bill would also make technical and conforming changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Traffic speed enforcement is critical to law enforcement
- 4 agencies' efforts to reduce factors that contribute to traffic
- 5 collisions.

1 (b) Law enforcement and local agencies employ a variety of
2 methods to lessen speeding, including engineering, education and
3 enforcement.

4 (c) Additional tools, including automated enforcement, are
5 available to assist law enforcement in addressing excessive
6 speeding and speed related crashes.

7 (d) Automated speed enforcement offers a high rate of detection,
8 and, in conjunction with education, engineering, and law
9 enforcement measures, it can significantly improve traffic safety.

10 (e) Several such programs implemented in other cities and states
11 have proven successful in reducing speeding and addressing traffic
12 safety concerns. These programs have also given policymakers
13 the opportunity to assess which programs have operated
14 appropriately and successfully, and which have operated in an
15 unsatisfactory fashion.

16 (f) In 2007, the International Association of Chiefs of Police
17 established a policy subcommittee to review existing automated
18 speed enforcement programs, and to identify the benefits of these
19 programs, as well as philosophical and practical concerns that have
20 been raised in response to automated speed enforcement programs.

21 (g) As a result of the International Association of Chiefs of
22 Police's review, as well as their collaboration with local and state
23 law enforcement agencies across the nation, the association has
24 adopted guidelines to assist local agencies and state legislatures
25 that are considering authorizing or implementing automated speed
26 enforcement programs. The guidelines ensure that automated speed
27 enforcement programs are implemented to improve traffic safety
28 by reducing excessive speeds, provide a reliable tool for law
29 enforcement agencies and officers, and eliminate vendor-driven
30 financial incentives for the operation of the program.

31 (h) It is the intent of the Legislature that a small-scale automated
32 speed enforcement pilot project be conducted based upon the
33 guidelines established by the International Association of Chiefs
34 of Police. The pilot project should be limited to residential streets
35 and school zones and locations that have been identified with a
36 history of excessive speeds or speed-related crashes. It is the intent
37 of the Legislature that an independent evaluation of the project
38 and a report be submitted to the Legislature regarding the efficacy
39 of the pilot project.

40 SEC. 2. Section 22368 is added to the Vehicle Code, to read:

1 22368. (a) As used in this section, “mobile automated speed
2 enforcement system” or “MASE system” means a mobile radar
3 system or laser-based unit operated by a peace officer that utilizes
4 automated equipment to detect a violation of speeding laws and
5 is designed to obtain a clear photograph of a vehicle’s license plate
6 and the driver of the vehicle.

7 (b) The City of Beverly Hills may, by ordinance, establish a
8 pilot project utilizing a MASE system for speed enforcement that
9 does all of the following:

10 (1) Identifies clearly the presence of the mobile automated speed
11 enforcement system and its operator by signs that are visible to
12 traffic entering the roadway on which the mobile automated speed
13 enforcement system is utilized.

14 (2) Identifies, with distinctive markings, the vehicle containing
15 the mobile automated speed enforcement equipment.

16 (3) Provides notice to drivers that a photographic record may
17 be taken when the driver passes the vehicle containing the mobile
18 automated speed enforcement system.

19 (4) Utilizes the system for speed enforcement in an area that
20 meets either of the following criteria:

21 (A) Is a residence district, as defined in Section 515, with a
22 speed limit that is no greater than 25 miles per hour.

23 (B) Is a school zone as defined in paragraph (2) of subdivision
24 (b) of Section 40802.

25 (5) (A) Utilizes a trained peace officer present at the time of
26 an alleged violation.

27 (B) The peace officer must be properly trained in all of the
28 following:

29 (i) The use of automated speed enforcement equipment.

30 (ii) The use of photographic, radar, laser, and other electronic
31 devices.

32 (iii) The enforcement of traffic and speeding laws.

33 (C) For the purposes of subparagraph (B), a peace officer is
34 considered properly trained if he or she has successfully completed
35 both of the following:

36 (i) Either a radar operator course approved and certified by the
37 Commission on Peace Officer Standards and Training of no less
38 than 24 hours on the use of a police traffic radar, laser, or other
39 electronic device, or an operator course meeting equivalent
40 standards.

1 (ii) A minimum number of hours of speed enforcement training
2 conducted by the local law enforcement agency, including, but not
3 limited to, the operation of the actual mobile automated speed
4 enforcement technology that is used by the local agency, the criteria
5 that is used to determine safe and unsafe road and driving
6 conditions, and the appropriate speed setting for the technology
7 in accordance with the varying conditions referenced in Section
8 22350.

9 (c) Prior to enforcing speed and traffic laws utilizing a MASE
10 system under the pilot project, the City of Beverly Hills shall do
11 both of the following:

12 (1) Make a public announcement about the system, which
13 includes public information regarding the hazards of excessive
14 speed, at least 30 days following the installation of the signs placed
15 pursuant to paragraph (1) of subdivision (b).

16 (2) Issue warning notices only for the first 30 days of
17 enforcement under the pilot program.

18 (d) The City of Beverly Hills, with the oversight of the local
19 law enforcement agency, may operate a mobile automated speed
20 enforcement system pursuant to this section. As used in this
21 subdivision, “operate” includes all of the following activities:

22 (1) Develop uniform guidelines for all of the following:

23 (A) The selection of locations where the system will be utilized.
24 The guidelines for the selection shall include, but are not limited
25 to, consideration of demonstrated community involvement and
26 support and demonstrated need for traffic safety enforcement based
27 on the incidence of traffic collisions or evidence of excessive
28 speeding, or both.

29 (B) The screening and issuing of citations.

30 (C) The processing and storage of confidential information.

31 (D) The establishment of procedures to ensure compliance with
32 the guidelines.

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

35 (A) Certify that the equipment is properly installed and
36 calibrated and is operating properly so that, at a minimum, the
37 radar, laser, or other electronic device used to measure the speed
38 of the accused meets or exceeds the minimum operational standards
39 of the International Association of Chiefs of Police and has been
40 calibrated within three years prior to the date of the alleged

1 violation by an independent certified laser or radar repair and
2 testing or calibration facility.

3 (B) Ensure that the equipment is regularly inspected.

4 (C) Regularly inspect and maintain warning signs placed
5 pursuant to paragraph (1) of subdivision (b).

6 (D) Maintain controls necessary to ensure that only those
7 citations that have been reviewed and approved by law enforcement
8 are delivered to violators.

9 (e) The peace officer who is present when the mobile automated
10 speed enforcement is in operation shall record information
11 concerning road and driving conditions at the time each photo is
12 taken.

13 (f) Citations issued pursuant to this section shall include a clear
14 photo of the driver and license plate of the vehicle and a description
15 of the alleged violation, including the road and driving conditions
16 present at the time when the alleged violation occurred. A separate
17 document that contains both a brief, basic explanation of California
18 speed laws, including references, and an explanation that the driver
19 has a right to appeal the citation shall accompany the citation.

20 (g) (1) Notwithstanding Section 6253 of the Government Code,
21 or any other provision of law, photographic records made by a
22 mobile automated speed enforcement system shall be confidential,
23 and shall be made available only to governmental agencies and
24 law enforcement agencies and only for the purposes of enforcing
25 this article.

26 (2) Confidential information obtained from the Department of
27 Motor Vehicles for the administration or enforcement of this article
28 shall be held confidential and shall not be used for any other
29 purpose.

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

38 (h) The registered owner or an individual identified by the
39 registered owner as the driver of the vehicle at the time of the

1 alleged violation shall be permitted to review the photographic
2 evidence establishing the alleged violation.

3 (i) A contract between a local authority and a manufacturer or
4 supplier of mobile photo radar enforcement equipment shall not
5 include any provision for the payment or compensation to the
6 manufacturer or supplier based on the number of citations
7 generated, or as a percentage of the revenue generated, as a result
8 of the use of the equipment authorized under this section. The local
9 authority may purchase materials, lease equipment, and contract
10 for processing services from a manufacturer or supplier, but only
11 the local authority shall control enforcement activities and only
12 designated peace officers of the local authority may authorize
13 citations for issuance.

14 (j) If the City of Beverly Hills establishes a mobile automated
15 speed enforcement system pilot project pursuant to this section,
16 the city shall, on or before January 1, 2013, submit to the
17 Legislature a report prepared by an independent qualified contractor
18 providing an evaluation of the mobile automated speed enforcement
19 system pilot project. The report shall provide data relative to the
20 efficacy of the mobile automated speed enforcement system in
21 reducing speeding and improving traffic safety in residential
22 neighborhoods and school zones. The contractor shall make the
23 report available to the public and request public comments from
24 interested parties prior to the final production of the report and
25 submittal to the Legislature.

26 (k) This section shall remain in effect only until January 1, 2014,
27 and as of that date is repealed, unless a later enacted statute, that
28 is enacted before January 1, 2014, deletes or extends that date.

29 SEC. 3. Section 40518 of the Vehicle Code is amended to read:

30 40518. (a) Whenever a written notice to appear has been issued
31 by a peace officer or by a qualified employee of a law enforcement
32 agency on a form approved by the Judicial Council for an alleged
33 violation of Section 22451, or, based on an alleged violation of
34 Section 21453, 21455, or 22101 recorded by an automated
35 enforcement system pursuant to Section 21455.5 or 22451, *or,*
36 *based on an alleged violation of Section 22350 recorded by a*
37 *mobile automated speed enforcement system pursuant to Section*
38 *22368, and delivered by mail within 15 days of the alleged*
39 *violation to the current address of the registered owner of the*
40 *vehicle on file with the department, with a certificate of mailing*

1 obtained as evidence of service, an exact and legible duplicate
2 copy of the notice when filed with the magistrate shall constitute
3 a complaint to which the defendant may enter a plea. Preparation
4 and delivery of a notice to appear pursuant to this section is not
5 an arrest.

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

13 (c) *This section shall remain in effect only until January 1, 2014,*
14 *and as of that date is repealed, unless a later enacted statute, that*
15 *is enacted before January 1, 2014, deletes or extends that date.*

16 SEC. 4. Section 40518 is added to the Vehicle Code, to read:

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

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

37 (c) This section shall become operative on January 1, 2014.

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