

AMENDED IN SENATE AUGUST 20, 2009

AMENDED IN SENATE JULY 7, 2009

AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 628**

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**Introduced by Assembly Member Block  
(Coauthor: Assembly Member Harkey)**

February 25, 2009

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An act to amend Sections 23302 and ~~40255~~, 40255, and 40273 of, and to add Section ~~23301.5~~ 23301.8 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 628, as amended, Block. Vehicles: toll evasion violations.

(1) Existing law makes it unlawful for any person to refuse to pay tolls or other charges on any vehicular crossing or toll highway and provides that it is prima facie evidence of a violation of this provision for any person to enter upon any vehicular crossing without either lawful money of the United States in the person's immediate possession in an amount sufficient to pay the prescribed tolls or other charges due from that person or a transponder or other electronic toll payment device associated with a valid Automatic Vehicle Identification account with a balance sufficient to pay those tolls. A violation of these provisions is an infraction.

This bill would require an issuing agency that permits pay-by-plate toll payment to communicate, as practicable, the pay-by-plate toll amount in the same manner as it communicates other toll payment methods and provide certain publicly available information on how

pay-by-plate toll payment works. The bill would additionally provide that, for vehicular crossings and toll highways where the issuing agency permits pay-by-plate toll payment of tolls and other charges in accordance with policies adopted by the issuing agency, it is prima facie evidence of a toll evasion violation for a person to enter the vehicular crossing or toll highway without at least one of the following: (A) lawful money of the United States in the person's immediate possession in an amount sufficient to pay the prescribed tolls or other charges due from that person, or (B) a transponder or other electronic toll payment device associated with a valid Automatic Vehicle Identification account with a balance sufficient to pay those tolls, or (C) valid California vehicle license plates properly affixed to both the front and rear of the vehicle in which that person enters onto the vehicular crossing or toll highway. Where electronic toll collection is the only other method of paying tolls or other charges, the bill would provide that it is prima facie evidence of a toll evasion violation for a person to enter the vehicular crossing or toll highway without either (i) a transponder or other electronic toll payment device associated with a valid Automatic Vehicle Identification account with a balance sufficient to pay those tolls, or (ii) valid California vehicle license plates properly affixed to both the front and rear of the vehicle in which that person enters onto the vehicular crossing or toll highway.

(2) Existing law provides that the officer or person authorized to issue a notice of toll evasion violation is not required to participate in an administrative review of the toll evasion violation and that the issuing agency is not required to produce any evidence other than the notice of toll evasion violation or a copy thereof, information received from the department identifying the registered owner of the vehicle, and a statement under penalty of perjury from the person reporting the violations. Under existing law perjury is a crime.

This bill would require instead, for a toll evasion violation that occurs on a vehicular crossing or toll highway where the issuing agency allows pay-by-plate toll payment, that the required evidence consisting of a statement be from the officer or person authorized to issue a notice of toll evasion and include a statement that the tolls or other charges and any applicable fee were not paid in accordance with the issuing agency's policies for pay-by-plate toll processing and payment. The bill would not require that this statement be made under penalty of perjury. The bill would require that any officer or person who knowingly provides false information pursuant to this provision be subject to a civil penalty

for each violation in the amount of \$250 up to a maximum amount of \$2,500. The bill would also authorize any public prosecutor to bring an action for a civil penalty in the name of the people of the State of California.

*(3) Existing law requires that any information obtained through the use of automated devices shall not be used for any purpose other than to identify, and obtain the mailing address information of, toll evasion violators, to facilitate the serving of notices of toll evasion violations and notices of delinquent toll evasion violations.*

*This bill would additionally provide that this information shall not be used for any purpose other than to identify, and obtain the mailing address information of, persons entering a vehicular crossing and toll highway where pay-by-plate toll payment is permitted by the toll operator to facilitate the collection of tolls.*

(3)

(4) The bill would make other technical, nonsubstantive and conforming changes to these provisions.

Because the bill would create new crimes, the bill would impose a state-mandated local program.

(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 ~~23301.5~~ 23301.8 is added to the Vehicle  
2 Code, to read:  
3 ~~23301.5.~~  
4 23301.8. Where an issuing agency permits pay-by-plate toll  
5 payment as described in subdivision (e) of Section 23302, it shall  
6 communicate, as practicable, the pay-by-plate toll amount in the  
7 same manner as it communicates other toll payment methods. The  
8 issuing agency shall provide publicly available information on  
9 how pay-by-plate toll payment works, including the toll amount,  
10 process for payment, and period of time a vehicle has to resolve

1 the payment before an issuing agency may process the trip as a  
2 violation under Section 40255. Communication of this information  
3 may include the Department of Transportation's approved signage,  
4 posting of information on the issuing agency's Internet Web site,  
5 media advertising, public meeting or disclosure as required by the  
6 issuing agency's policies, or other methods of communication.  
7 Except where the issuing agency has an agreement with a vehicle  
8 owner otherwise, administrative costs shall be incorporated into  
9 the pay-by-plate toll amount, and no additional administrative  
10 costs shall be added above the posted pay-by-plate toll amount.

11 SEC. 2. Section 23302 of the Vehicle Code is amended to read:

12 23302. (a) It is unlawful for a person to fail to pay tolls or  
13 other charges on any vehicular crossing or toll highway. Except  
14 as otherwise provided in subdivision (b), (c), or (d), it is prima  
15 facie evidence of a violation of this section for a person to enter  
16 upon any vehicular crossing without either lawful money of the  
17 United States in the person's immediate possession in an amount  
18 sufficient to pay the prescribed tolls or other charges due from that  
19 person or a transponder or other electronic toll payment device  
20 associated with a valid Automatic Vehicle Identification account  
21 with a balance sufficient to pay those tolls. If a transponder or  
22 other electronic toll payment device is used to pay tolls or other  
23 charges due, the device shall be located in, or on the vehicle in a  
24 location so as to be visible for the purpose of enforcement at all  
25 times when the vehicle is located on the vehicular crossing or toll  
26 highway. Where required by the operator of a vehicular crossing  
27 or toll highway, this requirement applies even if the operator offers  
28 free travel or nontoll accounts to certain classes of users.

29 (b) For vehicular crossings and toll highways that use electronic  
30 toll collection as the only method of paying tolls or other charges,  
31 it is prima facie evidence of a violation of this section for a person  
32 to enter the vehicular crossing or toll highway without a  
33 transponder or other electronic toll payment device associated with  
34 a valid Automatic Vehicle Identification account with a balance  
35 sufficient to pay those tolls.

36 (c) For vehicular crossings and toll highways where the issuing  
37 agency, as defined in Section 40250, permits pay-by-plate payment  
38 of tolls and other charges in accordance with policies adopted by  
39 the issuing agency, it is prima facie evidence of a violation of this

1 section for a person to enter the vehicular crossing or toll highway  
2 without at least one of the following:

3 (1) Lawful money of the United States in the person’s immediate  
4 possession in an amount sufficient to pay the prescribed tolls or  
5 other charges due from that person.

6 (2) A transponder or other electronic toll payment device  
7 associated with a valid Automatic Vehicle Identification account  
8 with a balance sufficient to pay those tolls.

9 (3) Valid vehicle license plates properly attached pursuant to  
10 Section 4850.5 or 5200 to the vehicle in which that person enters  
11 onto the vehicular crossing or toll highway.

12 (d) For vehicular crossings and toll highways where the issuing  
13 agency, as defined in Section 40250, permits pay-by-plate payment  
14 of tolls and other charges in accordance with policies adopted by  
15 the issuing agency, and where electronic toll collection is the only  
16 other method of paying tolls or other charges, it is prima facie  
17 evidence of a violation of this section for a person to enter the  
18 vehicular crossing or toll highway without either a transponder or  
19 other electronic toll payment device associated with a valid  
20 Automatic Vehicle Identification account with a balance sufficient  
21 to pay those tolls or valid vehicle license plates properly attached  
22 to the vehicle pursuant to Section 4850.5 or 5200 in which that  
23 person enters onto the vehicular crossing or toll highway.

24 (e) As used in this article, “pay-by-plate toll payment” means  
25 an issuing agency’s use of on-road vehicle license plate  
26 identification recognition technology to accept payment of tolls  
27 in accordance with policies adopted by the issuing agency.

28 (f) This section does not require an issuing agency to offer  
29 pay-by-plate toll processing as a method for paying tolls.

30 SEC. 3. Section 40255 of the Vehicle Code is amended to read:

31 40255. (a) Within 21 days from the issuance of the notice of  
32 toll evasion violation, or within 15 days from the mailing of the  
33 notice of delinquent toll evasion, whichever occurs later, a person  
34 may contest a notice of toll evasion violation or a notice of  
35 delinquent toll evasion. In that case, the processing agency shall  
36 do the following:

37 (1) The processing agency shall either investigate with its own  
38 records and staff or request that the issuing agency investigate the  
39 circumstances of the notice with respect to the contestant’s written  
40 explanation of reasons for contesting the toll evasion violation. If,

1 based upon the results of that investigation, the processing agency  
2 is satisfied that the violation did not occur or that the registered  
3 owner was not responsible for the violation, the processing agency  
4 shall cancel the notice of toll evasion violation and make an  
5 adequate record of the reasons for canceling the notice. The  
6 processing agency shall mail the results of the investigation to the  
7 person who contested the notice of toll evasion violation or the  
8 notice of delinquent toll evasion violation.

9 (2) If the person contesting a notice of toll evasion violation or  
10 notice of delinquent toll evasion violation is not satisfied with the  
11 results of the investigation provided for in paragraph (1), the person  
12 may, within 15 days of the mailing of the results of the  
13 investigation, deposit the amount of the toll evasion penalty and  
14 request an administrative review. After January 1, 1996, an  
15 administrative hearing shall be held within 90 calendar days  
16 following the receipt of a request for an administrative hearing,  
17 excluding any time tolled pursuant to this article. The person  
18 requesting the hearing may request one continuance, not to exceed  
19 21 calendar days.

20 (b) The administrative review procedure shall consist of the  
21 following:

22 (1) The person requesting an administrative review shall indicate  
23 to the processing agency his or her election for a review by mail  
24 or personal conference.

25 (2) If the person requesting an administrative review is a minor,  
26 that person shall be permitted to appear at an administrative review  
27 or admit responsibility for a toll evasion violation without the  
28 necessity of the appointment of a guardian. The processing agency  
29 may proceed against that person in the same manner as if that  
30 person were an adult.

31 (3) (A) The administrative review shall be conducted before a  
32 reviewer designated to conduct the review by the issuing agency's  
33 governing body or chief executive officer. In the case of violations  
34 on facilities developed pursuant to Section 143 of the Streets and  
35 Highways Code, the processing agency shall contract with a public  
36 agency or a private entity that has no financial interest in the facility  
37 for the provision of administrative review services pursuant to this  
38 subdivision. The costs of those administrative review services shall  
39 be included in the administrative fees authorized by this article.

1 (B) In addition to any other requirements of employment, a  
2 reviewer shall demonstrate those qualifications, training, and  
3 objectivity prescribed by the issuing agency's governing body or  
4 chief executive as are necessary and which are consistent with the  
5 duties and responsibilities set forth in this article.

6 (C) The examiner's continued employment, performance  
7 evaluation, compensation, and benefits shall not be directly or  
8 indirectly linked to the amount of fines collected by the examiner.

9 (4) The officer or person authorized to issue a notice of toll  
10 evasion violation shall not be required to participate in an  
11 administrative review. The issuing agency shall not be required to  
12 produce any evidence other than the notice of toll evasion violation  
13 or copy thereof, information received from the department  
14 identifying the registered owner of the vehicle, and a statement  
15 under penalty of perjury from the person reporting the violation.  
16 The documentation in proper form shall be considered prima facie  
17 evidence of the violation.

18 (5) For a toll evasion violation that occurs on a vehicular  
19 crossing or toll highway where the issuing agency allows  
20 pay-by-plate toll payment, as defined in subdivision (e) of Section  
21 23302, the officer or person authorized to issue a notice of toll  
22 evasion violation shall not be required to participate in an  
23 administrative review. The issuing agency shall not be required to  
24 produce any evidence other than the notice of toll evasion violation  
25 or copy thereof, information received from the department  
26 identifying the registered owner of the vehicle, and a statement  
27 from the officer or person authorized to issue a notice of toll  
28 evasion that the tolls or other charges and any applicable fee was  
29 not paid in accordance with the issuing agency's policies for  
30 pay-by-plate toll payment. Any officer or person who knowingly  
31 provides false information pursuant to this paragraph shall be  
32 subject to a civil penalty for each violation in the minimum amount  
33 of two hundred fifty dollars (\$250) up to a maximum amount of  
34 two thousand five hundred dollars (\$2,500). An action for a civil  
35 penalty may be brought by any public prosecutor in the name of  
36 the people of the State of California. The documentation in proper  
37 form shall be considered prima facie evidence of the violation.

38 (6) The review shall be conducted in accordance with the written  
39 procedure established by the processing agency which shall ensure  
40 fair and impartial review of contested toll evasion violations. The

1 agency’s final decision may be delivered personally or by first-class  
2 mail.

3 *SEC. 4. Section 40273 of the Vehicle Code is amended to read:*  
4 40273. Any information obtained pursuant to this article  
5 through the use of automated devices shall not be used for any  
6 purpose other than to identify, and obtain the mailing address  
7 information of, ~~to~~ *either of the following:*

8 (a) Toll evasion violators, to facilitate the serving of notices of  
9 toll evasion violations and notices of delinquent toll evasion  
10 violations.

11 (b) *Persons entering a vehicular crossing and toll highway*  
12 *where pay-by-plate toll payment, as defined in Section 23302, is*  
13 *permitted by the toll operator to facilitate the collection of tolls.*

14 ~~SEC. 4.~~

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