

Assembly Bill No. 2567

Passed the Assembly August 31, 2010

Chief Clerk of the Assembly

Passed the Senate August 30, 2010

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 40207 of, and to add and repeal Article 3.6 (commencing with Section 40245) of Chapter 1 of Division 17 of, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL’S DIGEST

AB 2567, Bradford. Vehicles: parking violations: digital photograph recordings.

Existing law authorizes the City and County of San Francisco, until January 1, 2012, to enforce parking violations in specified transit-only traffic lanes through the use of video image evidence.

This bill would authorize a local public agency to install and operate an automated parking enforcement system on local public agency-owned or local public agency-operated streetsweepers for the purpose of digital photographing of street-sweeping parking violations occurring in street-sweeping parking lanes during the designated hours of street-sweeping operations, except when the vehicle is parked in a street-sweeping parking lane during the designated hours of street-sweeping operations after the street has already been cleaned. The bill would require the local public agency, at least 30 days prior to issuing notice of parking violations under these provisions, to make a public announcement of the automated parking enforcement system and to issue only warning notices during this 30-day period.

The bill would require a designated employee, who is qualified by the local public agency, to review the digital photograph recordings for determining whether these parking violations had occurred and to issue a notice of a parking violation to the registered owner within 15 days of the violation pursuant to a specified procedure. The digital photograph records, including any information read from a license plate, would be confidential and would be available only to public agencies to enforce parking violations.

The bill would require, by January 1, 2015, a local public agency that utilizes an automated parking enforcement system pursuant to these provisions to collect and report specified data to the Senate and Assembly Committees on Judiciary, the Senate Committee

on Transportation and Housing, and the Assembly Committee on Transportation.

The bill would repeal these provisions as of January 1, 2016, and would make related changes.

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

SECTION 1. Section 40207 of the Vehicle Code, as amended by Section 1 of Chapter 377 of the Statutes of 2007, is amended to read:

40207. (a) The notice of delinquent parking violation shall contain the information specified in subdivision (a) of Section 40202, subdivision (a) of Section 40241, or subdivision (a) of Section 40248, as applicable, and Section 40203, and, additionally shall contain a notice to the registered owner that, unless the registered owner pays the parking penalty or contests the citation within 21 calendar days from the date of issuance of the citation or 14 calendar days after the mailing of the notice of delinquent parking violation or completes and files an affidavit of nonliability that complies with Section 40208 or 40209, the renewal of the vehicle registration shall be contingent upon compliance with the notice of delinquent parking violation. If the registered owner, by appearance or by mail, makes payment to the processing agency within 21 calendar days from the date of issuance of the citation or 14 calendar days after the mailing of the notice of delinquent parking violation, the parking penalty shall consist solely of the amount of the original penalty. Additional fees, assessments, or other charges shall not be added.

(b) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 2. Section 40207 of the Vehicle Code, as added by Section 2 of Chapter 377 of the Statutes of 2007, is amended to read:

40207. (a) The notice of delinquent parking violation shall contain the information specified in subdivision (a) of Section 40202 or subdivision (a) of Section 40248, as applicable, and Section 40203, and, additionally shall contain a notice to the registered owner that, unless the registered owner pays the parking penalty or contests the citation within 21 calendar days from the

date of issuance of the citation or 14 calendar days after the mailing of the notice of delinquent parking violation or completes and files an affidavit of nonliability that complies with Section 40208 or 40209, the renewal of the vehicle registration shall be contingent upon compliance with the notice of delinquent parking violation. If the registered owner, by appearance or by mail, makes payment to the processing agency within 21 calendar days from the date of issuance of the citation or 14 calendar days after the mailing of the notice of delinquent parking violation, the parking penalty shall consist solely of the amount of the original penalty. Additional fees, assessments, or other charges shall not be added.

(b) This section shall become operative on January 1, 2012.

SEC. 3. Article 3.6 (commencing with Section 40245) is added to Chapter 1 of Division 17 of the Vehicle Code, to read:

Article 3.6. Procedure on Photo Enforcement and Digital
Photographing of Parking Violations During Street Sweeping

40245. (a) The Legislature finds and declares all of the following:

(1) Streetsweepers operating throughout our nation and the world remove from streets and roads unnecessary pollutants, contaminants, chemicals, trash, and debris, which provides significant environmental and sanitation benefits, thereby protecting the environment and contributing to the health of people in communities worldwide.

(2) Each year, illegally parked private cars, trucks, and service vehicles on local streets and roads disrupt full street sweeping of as many as three parking spaces per illegally parked vehicle, resulting in significant debris, grease, oil, and other pollutants being needlessly washed into the stormwater drains.

(3) A major benefit of street sweeping, especially in more urbanized areas with higher areas of paving, is that by capturing pollutants before they are made soluble by rainwater, the need for stormwater treatment practices, which can be very costly when compared to collecting pollutants before they become soluble, may be reduced.

(4) According to an analysis by the District of Columbia Department of Public Works, an average of 10 pounds of oil and grease, three pounds of nitrogen and phosphorus, and up to two

pounds of heavy metals are typically removed per mile swept of local streets and roads through street sweeping.

(5) According to an August 2004 technical report on “Trash Best Management Practices” submitted by the County of Los Angeles Department of Public Works, street sweeping and stricter enforcement of no parking regulations should “be utilized to the maximum extent practicable” to help prevent trash, litter, and other harmful pollutants from getting into the stormwater drain system.

(6) According to a July 2007 technical report titled “Trash Total Maximum Daily Loads for the Los Angeles River Watershed,” stormwater drain discharges are the “primary source of trash” in the waterbodies of the Los Angeles River Watershed, whereby unswept street litter is washed through the storm drain sewers into the Los Angeles River, the Estuary, the beaches at Long Beach, and the Pacific Ocean.

(7) In August 2007, after extensive studies, public meetings, and economic benefit analysis, the Los Angeles Regional Water Quality Control Board adopted a phased-in goal of “zero” discharges of manmade trash in the Los Angeles River Watershed by 2016, a goal that was subsequently approved by the State Water Resources Control Board in April 2008 and the United States Environmental Protection Agency in July 2008.

(8) Cities such as Chicago and Washington D.C. already utilize automated parking enforcement systems mounted on their local public agency-owned or local public agency-operated streetsweepers to enforce existing regulations and improve compliance with street-sweeping regulations, which benefits the environment by helping reduce waste and pollutants from entering stormwater drain systems.

(b) It is the intent of the Legislature that a citation shall be issued, under the provisions of this article, only for violations captured during the designated hours of operation for a street-sweeping parking lane. It is also the intent of the Legislature that a citation shall not be issued, under the provisions of this article, for a vehicle that is parked on the street during the designated hours of operation for a street-sweeping parking lane when the vehicle is parked on the street after the street has been cleaned by a streetsweeper.

(c) It is also the intent of the Legislature that this article shall provide a single statewide standard for the use of camera

enforcement technology on streetsweepers to help ensure continuity in program implementation and enforcement by local public agencies that desire to implement camera enforcement systems, including prohibiting the use of information read from license plates for any other purpose, establishing appropriate context supporting the violation that ensures individual privacy is maintained, and ensuring confidential data is disposed of properly, adequately, and safely after final disposition.

(d) Therefore, it is the intent of the Legislature to allow local public agency-owned or local public agency-operated streetsweepers to utilize automated parking enforcement systems for the purpose of digital photographing of street-sweeping parking violations for vehicles that are illegally parked during the designated hours of operation in a street-sweeping parking lane, thus serving the public interest by benefiting the environment, improving water quality, decreasing stormwater drain runoff, and helping reduce ongoing habitat deterioration.

40246. For the purposes of this article, the following terms have the following meanings:

(a) “Local public agency” means a city, county, city and county, district, or joint powers authority.

(b) “Streetsweeper” means a mechanical vehicle that cleans streets and roads, utilizing a broom, conveyor belt, vacuum, or regenerative-air mechanism, among other mechanisms, to loosen, carry, and collect debris, dust, grease, oil, metals, and other pollutants from streets and roads.

(c) “Street-sweeping parking lane” means the land designated as a parking area on any street or road routinely cleaned by streetsweepers during designated hours of operation as indicated on schedule signs designated on both sides of the street or road.

40247. (a) A local public agency may install and operate an automated parking enforcement system on local public agency-owned or local public agency-operated streetsweepers for the purpose of digital photographing of street-sweeping parking violations occurring in street-sweeping parking lanes. The equipment shall be angled and focused so as to capture digital photographs of license plates on vehicles violating designated street-sweeping regulations and shall not unnecessarily capture identifying photographs of other drivers, vehicles, or pedestrians. The equipment shall only capture digital photographs when the

automated parking enforcement system detects the occurrence of a parking infraction. The equipment shall record the date and time the violation was captured onto the photograph. Any information read from a license plate at a location or at a time not designated for streetsweeping shall be destroyed by the close of the next business day. Notwithstanding subdivision (e) of Section 40248, only a local public agency may operate an automated parking enforcement system.

(1) A citation shall be issued only for violations captured during the designated hours of operation for a street-sweeping parking lane.

(2) A citation shall not be issued, under the provisions of this article, for a vehicle that is parked on the street during the designated hours of operation for a street-sweeping parking lane when the vehicle is parked on the street after the street has been cleaned by a streetsweeper.

(b) At least 30 days prior to issuing notices of parking violations pursuant to subdivision (a) of Section 40248, a local public agency utilizing an automated parking enforcement system pursuant to this article shall make a public announcement of the automated parking enforcement system and shall only issue warning notices during this 30-day period. This subdivision does not affect the authority of a local public agency to issue notices of parking violations through a manual system before, during, or after the 30-day warning period in this subdivision.

(c) A designated employee for the local public agency, who is qualified by the local public agency to issue parking citations, shall review digital photographs for the purpose of determining whether a parking violation occurred in a street-sweeping parking lane. A violation of a statute, regulation, or ordinance governing parking under this code, under a federal or state statute or regulation, or under an ordinance enacted by the local public agency occurring in a street-sweeping parking lane observed by the designated employee in the photographs is subject to a civil penalty.

(d) (1) Except as it may be included in court records described in Section 68152 of the Government Code, or as provided in paragraph (2), the digital photograph evidence may be retained for up to six months from the date the information was first obtained, or 90 days after final disposition of the citation, whichever date is sooner, after which time the information shall

be destroyed in a manner that shall preserve the confidentiality of any person included in the record or information.

(2) Notwithstanding Section 26202.6 of the Government Code, digital photographs from automated parking enforcement systems that do not contain evidence of a parking violation occurring in a street-sweeping parking lane shall be destroyed within 15 days after the information was first obtained in a manner that shall preserve the confidentiality of any person included in the information.

(e) Notwithstanding Section 6253 of the Government Code, or any other provision of law, the digital photographs made, and any information read from license plates, by an automated parking enforcement system shall be confidential. Local public agencies shall use and allow access to these photographs and license plate readings only for the purposes authorized by this article.

40248. (a) A designated employee for the local public agency shall issue a notice of a parking violation to the registered owner of a vehicle within 15 calendar days of the date of the violation. The notice of violation shall set forth the violation of a statute, regulation, or ordinance governing vehicle parking under this code, under a federal or state statute or regulation, or under an ordinance enacted by the local public agency occurring in a street-sweeping parking lane, a statement indicating that payment is required within 21 calendar days from the date of citation issuance, and the procedure for the registered owner to deposit the parking penalty or contest the citation pursuant to Section 40215. The notice of a parking violation shall also set forth the date, time, and location of the violation, the vehicle license number, registration expiration date if visible, the color of the vehicle, and, if possible, the make of the vehicle. The notice of parking violation shall include a copy of the digital photograph evidence. Except as provided in paragraph (1) of subdivision (d) of Section 40247, the notice of parking violation, or copy of the notice, shall be considered a record kept in the ordinary course of business of the local public agency and shall be prima facie evidence of the facts contained in the notice.

(b) The notice of parking violation shall be served by depositing the notice in the United States Postal Service to the registered owner's last known address listed with the Department of Motor Vehicles. Confidential information obtained from the Department of Motor Vehicles for the administration or enforcement of this

article shall be held confidential, and may not be used for any other purpose. Proof of mailing demonstrating that the notice of parking violation was mailed to that address shall be maintained by the local public agency. If the registered owner, by appearance or by mail, makes payment to the processing agency or contests the violation within either 21 calendar days from the date of mailing of the citation, or 14 calendar days after the mailing of the notice of delinquent parking violation, the parking penalty shall consist solely of the amount of the original penalty.

(c) The local public agency shall allow a person to contest a notice of parking violation pursuant to Section 40215.

(d) Following an initial review by the local public agency, and an administrative hearing, pursuant to Section 40215, a contestant may seek court review by filing an appeal pursuant to Section 40230.

(e) The local public agency may contract with a private vendor for the processing of notices of parking violations and notices of delinquent violations, if the local public agency maintains overall control and supervision of the automated parking enforcement system.

40249. By January 1, 2015, a local public agency that utilizes an automated parking enforcement system pursuant to this article shall collect and report to the Senate and Assembly Committees on Judiciary, the Senate Committee on Transportation and Housing, and the Assembly Committee on Transportation, all of the following data:

(a) Number of citations issued for parking violations.

(b) Number of violations contested, and the final disposition of those violations.

(c) Number and percentage of photographs recorded from which notices of parking violations were issued.

(d) Number and percentage of photographs recorded from which no notices of parking violations were recorded.

(e) A summary of any instances in which a person or entity requested a photograph for a purpose unrelated to this article, including information regarding the purpose for which the photograph was requested, whether or not the local public agency provided the photograph, and, if the public agency provided the photograph, to whom the photograph was provided.

(f) The specific procedures that were used for the destruction of license plate readings pursuant to subdivision (a) of Section 40247 and the photographs pursuant to subdivision (d) of Section 40247.

(g) An evaluation of the overall effectiveness of the program.

(h) An evaluation of the privacy implications of the system, including a summary of any privacy-related complaints about the system.

40249.5. This article shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

Approved _____, 2010

Governor