

ASSEMBLY BILL

No. 426

Introduced by Assembly Member Bonnie Lowenthal

February 14, 2011

An act to amend Section 640 of the Penal Code, and to amend Section 99580 of the Public Utilities Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 426, as introduced, Bonnie Lowenthal. Transit fare evasion.

Existing law authorizes certain transit operators to adopt and enforce an ordinance to impose and enforce civil administrative penalties for fare evasion or passenger misconduct, other than by minors, on or in a transit facility or vehicle in lieu of the criminal penalties otherwise applicable, with specified administrative adjudication procedures for the imposition and enforcement of the administrative penalties, including an initial review and opportunity for a subsequent administrative hearing.

This bill would provide that a person cited under the ordinance shall be afforded an opportunity to complete the administrative process under the circumstances set forth in the ordinance.

Existing law requires fare evasion and passenger misconduct violation penalties to be deposited in the general fund of the county in which the violation occurred.

This bill, with respect to penalties collected by the Los Angeles County Metropolitan Transportation Authority, would instead require the penalties to be deposited in the general fund of the authority.

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. Section 640 of the Penal Code is amended to
2 read:

3 640. (a) (1) Any of the acts described in paragraphs (1) to (5),
4 inclusive, of subdivision (b) is an infraction punishable by a fine
5 not to exceed two hundred fifty dollars (\$250) and by community
6 service for a total time not to exceed 48 hours over a period not to
7 exceed 30 days, during a time other than during the violator's hours
8 of school attendance or employment. Any of the acts described in
9 paragraphs (1) to (3), inclusive, of subdivision (c), upon a first or
10 second violation, is an infraction punishable by a fine not to exceed
11 two hundred fifty dollars (\$250) and by community service for a
12 total time not to exceed 48 hours over a period not to exceed 30
13 days, during a time other than during the violator's hours of school
14 attendance or employment. A third or subsequent violation of any
15 of the acts described in paragraphs (1) to (3), inclusive, of
16 subdivision (c) is a misdemeanor punishable by a fine of not more
17 than four hundred dollars (\$400) or by imprisonment in a county
18 jail for a period of not more than 90 days, or by both that fine and
19 imprisonment. Any of the acts described in subdivision (d) shall
20 be punishable by a fine of not more than four hundred dollars
21 (\$400), by imprisonment in a county jail for a period of not more
22 than 90 days, or by both that fine and imprisonment.

23 (2) This section shall apply only to acts committed on or in a
24 facility or vehicle of a public transportation system.

25 (b) (1) Eating or drinking in or on a system facility or vehicle
26 in areas where those activities are prohibited by that system.

27 (2) Disturbing another person by loud or unreasonable noise.

28 (3) Smoking in or on a system facility or vehicle in areas where
29 those activities are prohibited by that system.

30 (4) Expecterating upon a system facility or vehicle.

31 (5) Skateboarding, roller skating, bicycle riding, roller blading,
32 or operating a motorized scooter or similar device, as defined in
33 Section 407.5 of the Vehicle Code in a system facility, vehicle, or
34 parking structure. This paragraph does not apply to an activity that
35 is necessary for utilization of the transit facility by a bicyclist,
36 including, but not limited to, an activity that is necessary for
37 parking a bicycle or transporting a bicycle aboard a transit vehicle,
38 if that activity is conducted with the permission of the transit

1 agency in a manner that does not interfere with the safety of the
2 bicyclist or other patrons of the transit facility.

3 (c) (1) Evasion of the payment of a fare of the system. For
4 purposes of this section, fare evasion includes entering an enclosed
5 area of a public transit facility beyond posted signs prohibiting
6 entrance without obtaining valid fare, in addition to entering a
7 transit vehicle without valid fare.

8 (2) Misuse of a transfer, pass, ticket, or token with the intent to
9 evade the payment of a fare.

10 (3) (A) Unauthorized use of a discount ticket or failure to
11 present, upon request from a transit system representative,
12 acceptable proof of eligibility to use a discount ticket, in
13 accordance with Section 99155 of the Public Utilities Code and
14 posted system identification policies when entering or exiting a
15 transit station or vehicle. Acceptable proof of eligibility must be
16 clearly defined in the posting.

17 (B) In the event that an eligible discount ticket user is not in
18 possession of acceptable proof at the time of request, any citation
19 issued shall be held for a period of 72 hours to allow the user to
20 produce acceptable proof. If the proof is provided, the citation
21 shall be voided. If the proof is not produced within that time period,
22 the citation shall be processed.

23 (d) (1) Willfully disturbing others on or in a system facility or
24 vehicle by engaging in boisterous or unruly behavior.

25 (2) Carrying an explosive, acid, or flammable liquid in a public
26 transit facility or vehicle.

27 (3) Urinating or defecating in a system facility or vehicle, except
28 in a lavatory. However, this paragraph shall not apply to a person
29 who cannot comply with this paragraph as a result of a disability,
30 age, or a medical condition.

31 (4) Willfully blocking the free movement of another person in
32 a system facility or vehicle. This paragraph shall not be interpreted
33 to affect any lawful activities permitted or First Amendment rights
34 protected under the laws of this state or applicable federal law,
35 including, but not limited to, laws related to collective bargaining,
36 labor relations, or labor disputes.

37 (5) Willfully tampering with, removing, displacing, injuring,
38 or destroying any part of any facility or vehicle of a public
39 transportation system.

1 (e) Notwithstanding subdivision (a), the City and County of San
 2 Francisco, the Los Angeles County Metropolitan Transportation
 3 Authority, the Santa Clara Valley Transportation Authority, the
 4 Sacramento Regional Transit District, Long Beach Transit, Foothill
 5 Transit, and the Alameda-Contra Costa Transit District may enact
 6 and enforce an ordinance providing that *a person who is the subject*
 7 *of a citation for any of the acts described in subdivision (b) or (c)*
 8 *on or in a facility or vehicle described in subdivision (a) for which*
 9 *the City and County of San Francisco, the Los Angeles County*
 10 *Metropolitan Transportation Authority, the Santa Clara Valley*
 11 *Transportation Authority, the Sacramento Regional Transit District,*
 12 *Long Beach Transit, Foothill Transit, or the Alameda-Contra Costa*
 13 *Transit District has jurisdiction shall—be—subject under the*
 14 *circumstances set forth by the ordinance be afforded an opportunity*
 15 *to complete an administrative process that imposes only—to an*
 16 *administrative penalty imposed and enforced in a civil proceeding.*
 17 The ordinance for imposing and enforcing the administrative
 18 penalty shall be governed by Chapter 8 (commencing with Section
 19 99580) of Part 11 of Division 10 of the Public Utilities Code and
 20 shall not apply to minors.

21 (f) For purposes of this section, a “facility or vehicle of a public
 22 transportation system” means any of the following:

23 (1) A facility or vehicle of a public transportation system as
 24 defined by Section 99211 of the Public Utilities Code.

25 (2) A facility of, or vehicle operated by any entity subsidized
 26 by, the Department of Transportation.

27 (3) A leased or rented facility or vehicle for which any of the
 28 entities described in paragraph (1) or (2) incurs costs of cleanup,
 29 repair, or replacement as a result of any of those acts.

30 SEC. 2. Section 99580 of the Public Utilities Code is amended
 31 to read:

32 99580. (a) Pursuant to subdivision (c) of Section 640 of the
 33 Penal Code, the City and County of San Francisco, the Los Angeles
 34 County Metropolitan Transportation Authority, the Santa Clara
 35 Valley Transportation Authority, the Sacramento Regional Transit
 36 District, Long Beach Transit, Foothill Transit, and the
 37 Alameda-Contra Costa Transit District may enact and enforce an
 38 ordinance to impose and enforce an administrative penalty for any
 39 of the acts described in subdivision (b). The ordinance shall include
 40 the provisions of this chapter and shall not apply to minors.

- 1 (b) (1) Evasion of the payment of a fare of the system.
- 2 (2) Misuse of a transfer, pass, ticket, or token with the intent to
- 3 evade the payment of a fare.
- 4 (3) Playing sound equipment on or in a system facility or
- 5 vehicle.
- 6 (4) Smoking, eating, or drinking in or on a system facility or
- 7 vehicle in those areas where those activities are prohibited by that
- 8 system.
- 9 (5) Expectoring upon a system facility or vehicle.
- 10 (6) Willfully disturbing others on or in a system facility or
- 11 vehicle by engaging in boisterous or unruly behavior.
- 12 (7) Carrying an explosive or acid, flammable liquid, or toxic or
- 13 hazardous material in a system facility or vehicle.
- 14 (8) Urinating or defecating in a system facility or vehicle, except
- 15 in a lavatory. However, this paragraph shall not apply to a person
- 16 who cannot comply with this paragraph as a result of a disability,
- 17 age, or a medical condition.
- 18 (9) (A) Willfully blocking the free movement of another person
- 19 in a system facility or vehicle.
- 20 (B) This paragraph shall not be interpreted to affect any lawful
- 21 activities permitted or first amendment rights protected under the
- 22 laws of this state or applicable federal law, including, but not
- 23 limited to, laws related to collective bargaining, labor relations,
- 24 or labor disputes.
- 25 (10) Skateboarding, roller skating, bicycle riding, or roller
- 26 blading in a system facility, including a parking structure, or in a
- 27 system vehicle. This paragraph does not apply to an activity that
- 28 is necessary for utilization of a system facility by a bicyclist,
- 29 including, but not limited to, an activity that is necessary for
- 30 parking a bicycle or transporting a bicycle aboard a system vehicle,
- 31 if that activity is conducted with the permission of the agency of
- 32 the system in a manner that does not interfere with the safety of
- 33 the bicyclist or other patrons of the system facility.
- 34 (11) (A) Unauthorized use of a discount ticket or failure to
- 35 present, upon request from a system representative, acceptable
- 36 proof of eligibility to use a discount ticket, in accordance with
- 37 Section 99155, and posted system identification policies when
- 38 entering or exiting a system station or vehicle. Acceptable proof
- 39 of eligibility must be clearly defined in the posting.

1 (B) In the event that an eligible discount ticket user is not in
 2 possession of acceptable proof at the time of request, an issued
 3 notice of fare evasion or passenger conduct violation shall be held
 4 for a period of 72 hours to allow the user to produce acceptable
 5 proof. If the proof is provided, that notice shall be voided. If the
 6 proof is not produced within that time period, that notice shall be
 7 processed.

8 (c) (1) The City and County of San Francisco, the Los Angeles
 9 County Metropolitan Transportation Authority, the Santa Clara
 10 Valley Transportation Authority, the Sacramento Regional Transit
 11 District, Long Beach Transit, Foothill Transit, and the
 12 Alameda-Contra Costa Transit District may contract with a private
 13 vendor for the processing of notices of fare evasion or passenger
 14 conduct violation, and notices of delinquent fare evasion or
 15 passenger conduct violation pursuant to Section 99581.

16 (2) For the purpose of this chapter, “processing agency” means
 17 either of the following:

18 (A) The agency issuing the notice of fare evasion or passenger
 19 conduct violation and the notice of delinquent fare evasion or
 20 passenger conduct violation.

21 (B) The party responsible for processing the notice of fare
 22 evasion or passenger conduct violation and the notice of delinquent
 23 violation, if a contract is entered into pursuant to paragraph (1).

24 (3) For the purpose of this chapter, “fare evasion or passenger
 25 conduct violation penalty” includes, but is not limited to, a late
 26 payment penalty, administrative fee, fine, assessment, and costs
 27 of collection as provided for in the ordinance.

28 (4) All fare evasion and passenger conduct violation penalties
 29 collected by the processing agency in the City and County of San
 30 Francisco shall be deposited to the general fund of the City and
 31 County of San Francisco.

32 (5) All fare evasion and passenger conduct violation penalties
 33 collected by the ~~Los Angeles County Metropolitan Transportation~~
 34 ~~Authority~~, Long Beach Transit, or Foothill Transit shall be
 35 deposited in the general fund of the County of Los Angeles.

36 (6) *All fare evasion and passenger conduct violation penalties*
 37 *collected by the Los Angeles County Metropolitan Transportation*
 38 *Authority shall be deposited in the general fund of the authority.*

39 (6)

1 (7) All fare evasion and passenger conduct violation penalties
2 collected by the Santa Clara Valley Transportation Authority shall
3 be deposited in the general fund of the County of Santa Clara.

4 ~~(7)~~

5 (8) All fare evasion and passenger conduct violation penalties
6 collected by the Sacramento Regional Transit District shall be
7 deposited in the general fund of the County of Sacramento.

8 ~~(8)~~

9 (9) All fare evasion and passenger conduct violation penalties
10 collected by the Alameda-Contra Costa Transit District shall be
11 deposited in the general fund of the county in which the citation
12 is administered.

13 (d) (1) If a fare evasion or passenger conduct violation is
14 observed by a person authorized to enforce the ordinance, a notice
15 of fare evasion or passenger conduct violation shall be issued. The
16 notice shall set forth the violation, including reference to the
17 ordinance setting forth the administrative penalty, the date of the
18 violation, the approximate time, and the location where the
19 violation occurred. The notice shall include a printed statement
20 indicating the date payment is required to be made, and the
21 procedure for contesting the notice. The notice shall be served by
22 personal service upon the violator. The notice, or copy of the
23 notice, shall be considered a record kept in the ordinary course of
24 business of the issuing agency and the processing agency, and
25 shall be prima facie evidence of the facts contained in the notice
26 establishing a rebuttable presumption affecting the burden of
27 producing evidence.

28 (2) When a notice of fare evasion or passenger conduct violation
29 has been served, the person issuing the notice shall file the notice
30 with the processing agency.

31 (3) If a person contests a notice of fare evasion or passenger
32 conduct violation, the issuing agency shall proceed in accordance
33 with Section 99581.

34 (e) In setting the amounts of administrative penalties for the
35 violations listed in subdivision (b), the City and County of San
36 Francisco, the Los Angeles County Metropolitan Transportation
37 Authority, the Santa Clara Valley Transportation Authority, the
38 Sacramento Regional Transit District, Long Beach Transit, Foothill
39 Transit, and the Alameda-Contra Costa Transit District shall not

- 1 establish penalty amounts that exceed the maximum fine amount
- 2 set forth in Section 640 of the Penal Code.
- 3 (f) A person who receives a notice of fare evasion or passenger
- 4 conduct violation pursuant to this section shall not be subject to
- 5 citation for a violation of Section 640 of the Penal Code.

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