

AMENDED IN ASSEMBLY APRIL 26, 2011

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 432

Introduced by Assembly Member Hall

February 14, 2011

An act to amend ~~Section 210~~ Sections 40518 and 40520 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 432, as amended, Hall. Vehicles: ~~automated traffic enforcement systems~~. *notice to appear: service.*

(1) Existing law provides special written, mailed notice to appear procedures in connection with certain alleged traffic violations, including those recorded by an automated traffic enforcement system, and also requires that for those violations recorded by an automated traffic enforcement system the governmental agency may not contract out to the manufacturer or supplier of the automated traffic enforcement system the requirement to maintain controls necessary to ensure that only those citations that have been reviewed and approved by law enforcement are delivered to violators.

This bill would require that only a peace officer or a qualified employee of a law enforcement agency may serve a notice to appear for the specified traffic offenses, including those recorded by an automated traffic enforcement system. By expanding the duties of local law enforcement officials, the bill would impose a state-mandated local program.

(2) *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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~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.~~

~~Existing law defines an “automated enforcement system” as any system operated by a governmental agency, in cooperation with a law enforcement agency, that photographically records a driver’s responses to a rail or rail transit signal or crossing gate, or both, or to an official traffic control signal and is designed to obtain a clear photograph of a vehicle’s license plate and the driver of the vehicle.~~

~~This bill would redefine an “automated enforcement system” as an “automated traffic enforcement system” and would also include a system that uses digital recording to obtain a digital image or digital video of a vehicle’s license plate and the driver of the vehicle.~~

~~By expanding the definition of an existing crime, the bill would impose a state-mandated local program.~~

~~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 40518 of the Vehicle Code is amended to
2 read:

1 40518. (a) ~~Whenever a~~ A written notice to appear ~~has been~~
2 *shall be* issued by a peace officer or by a qualified employee of a
3 law enforcement agency on a form approved by the Judicial
4 Council for an alleged violation of Section 22451, or, based on an
5 alleged violation of Section 21453, 21455, or 22101 recorded by
6 an automated *traffic* enforcement system pursuant to Section
7 21455.5 or 22451, and delivered by mail within 15 days of the
8 alleged violation to the current address of the registered owner of
9 the vehicle on file with the department, with a certificate of mailing
10 obtained *through the United States Postal Service* as evidence of
11 service; ~~an~~. An exact and legible duplicate copy of the notice to
12 *appear* when filed with the magistrate shall constitute a complaint
13 to which the defendant may enter a plea. Preparation and delivery
14 of a notice to appear pursuant to this section is not an arrest.

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

22 *SEC. 2. Section 40520 of the Vehicle Code is amended to read:*

23 40520. (a) A notice to appear issued pursuant to Section 40518
24 for an alleged violation recorded by an automatic *traffic*
25 enforcement system shall contain, or be accompanied by, an
26 affidavit of nonliability and information as to what constitutes
27 nonliability, information as to the effect of executing the affidavit,
28 and instructions for returning the affidavit to the issuing agency.

29 (b) (1) If a notice to appear is sent to a car rental or leasing
30 company, as the registered owner of the vehicle, the company may
31 return the notice of nonliability pursuant to paragraph (2), if the
32 violation occurred when the vehicle was either leased or rented
33 and operated by a person other than an employee of the rental or
34 leasing company.

35 (2) If the affidavit of nonliability is returned to the issuing
36 agency by the registered owner within 30 days of the mailing of
37 the notice to appear together with the proof of a written rental
38 agreement or lease between a bona fide renting or leasing company
39 and its customer and that agreement identifies the renter or lessee
40 and provides the driver's license number, name, and address of

1 the renter or lessee, the agency shall cancel the notice for the
2 registered owner to appear and shall, instead, issue a notice to
3 appear to the renter or lessee identified in the affidavit of
4 nonliability.

5 (c) Nothing in this section precludes an issuing agency from
6 establishing a procedure whereby registered owners, other than
7 bona fide renting and leasing companies, may execute an affidavit
8 of nonliability if the registered owner identifies the person who
9 was the driver of the vehicle at the time of the alleged violation
10 and whereby the issuing agency issues a notice to appear *pursuant*
11 *to Section 40518* to that person.

12 *SEC. 3. If the Commission on State Mandates determines that*
13 *this act contains costs mandated by the state, reimbursement to*
14 *local agencies and school districts for those costs shall be made*
15 *pursuant to Part 7 (commencing with Section 17500) of Division*
16 *4 of Title 2 of the Government Code.*

17 ~~SECTION 1. Section 210 of the Vehicle Code is amended to~~
18 ~~read:~~

19 ~~210. An “automated traffic enforcement system” is any system~~
20 ~~operated by a governmental agency, in cooperation with a law~~
21 ~~enforcement agency, that digitally or photographically records a~~
22 ~~driver’s responses to a rail or rail transit signal or crossing gate,~~
23 ~~or both, or to an official traffic control signal described in Section~~
24 ~~21450, and is designed to obtain a clear digital image, digital video,~~
25 ~~or photograph of a vehicle’s license plate and the driver of the~~
26 ~~vehicle.~~

27 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
28 ~~Section 6 of Article XIII B of the California Constitution because~~
29 ~~the only costs that may be incurred by a local agency or school~~
30 ~~district will be incurred because this act creates a new crime or~~
31 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
32 ~~for a crime or infraction, within the meaning of Section 17556 of~~
33 ~~the Government Code, or changes the definition of a crime within~~
34 ~~the meaning of Section 6 of Article XIII B of the California~~
35 ~~Constitution.~~