

AMENDED IN SENATE JUNE 21, 2011

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 Sections 40518 and 40520 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 432, as amended, Hall. Vehicles: 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, *and would require that the notice to appear be enclosed in an official envelope of the issuing agency*. 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.

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
2 to read:

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

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

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

26 40520. (a) A notice to appear issued pursuant to Section 40518
27 for an alleged violation recorded by an automatic traffic
28 enforcement system shall contain, or be accompanied by, an

1 affidavit of nonliability and information as to what constitutes
2 nonliability, information as to the effect of executing the affidavit,
3 and instructions for returning the affidavit to the issuing agency.

4 (b) (1) If a notice to appear is sent to a car rental or leasing
5 company, as the registered owner of the vehicle, the company may
6 return the notice of nonliability pursuant to paragraph (2), if the
7 violation occurred when the vehicle was either leased or rented
8 and operated by a person other than an employee of the rental or
9 leasing company.

10 (2) If the affidavit of nonliability is returned to the issuing
11 agency by the registered owner within 30 days of the mailing of
12 the notice to appear together with the proof of a written rental
13 agreement or lease between a bona fide renting or leasing company
14 and its customer and that agreement identifies the renter or lessee
15 and provides the driver's license number, name, and address of
16 the renter or lessee, the agency shall cancel the notice for the
17 registered owner to appear and shall, instead, issue a notice to
18 appear to the renter or lessee identified in the affidavit of
19 nonliability.

20 (c) Nothing in this section precludes an issuing agency from
21 establishing a procedure whereby registered owners, other than
22 bona fide renting and leasing companies, may execute an affidavit
23 of nonliability if the registered owner identifies the person who
24 was the driver of the vehicle at the time of the alleged violation
25 and whereby the issuing agency issues a notice to appear pursuant
26 to Section 40518 to that person.

27 SEC. 3. If the Commission on State Mandates determines that
28 this act contains costs mandated by the state, reimbursement to
29 local agencies and school districts for those costs shall be made
30 pursuant to Part 7 (commencing with Section 17500) of Division
31 4 of Title 2 of the Government Code.

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