

ASSEMBLY BILL

No. 2477

Introduced by Assembly Member Garrick
(Coauthor: Senator Wyland)

February 24, 2012

An act to amend Section 26708 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2477, as introduced, Garrick. Vehicles: commercial vehicles: video event recorders.

(1) Existing law prohibits any person, except as specified, from driving any motor vehicle with any object or material placed, displayed, installed, affixed, or applied in or upon the vehicle that obstructs or reduces the driver's clear view through the windshield or side windows. Existing law exempts from this prohibition specified devices, including, among other things, a video event recorder, as defined, if the device conforms to certain mounting requirements, including that when a person is driving for hire as an employee in a vehicle with a video event recorder, the person's employer is required to provide unedited copies of the recordings upon the request of the employee or the employee's representative. Existing law requires the copies to be provided within 5 days of the request. A violation of the Vehicle Code is a crime.

This bill would instead require the employer to provide an opportunity to view the recordings, if the request is provided within 90 days of the recording being created and would require the opportunity for viewing the recording to be provided within 5 days of the request. The bill would create a state-mandated local program by creating a new crime.

(2) The federal regulations adopted by the Federal Motor Carrier Safety Administration prohibit, among other things, the mounting of devices on top of the windshield. The Federal Motor Carrier Safety Administration is authorized, pursuant to federal law, to provide exemptions from these regulations and to renew that exemption for a 2-year period.

This bill would exempt, from the prohibition against placing an object that obstructs or reduces the driver’s clear view, as specified in paragraph (1) above, a video event recorder, as described, mounted in a commercial motor vehicle that meets specified requirements. The bill would provide that this exemption would become inoperative on the date that the Department of the California Highway Patrol determines is the expiration date of an exemption granted by the Federal Motor Carrier Safety Administration from that federal regulation or the date of the expiration of any subsequent exemption, as specified. The bill would provide that, notwithstanding this nonoperation, on the date when the Department of the California Highway Patrol determines is the effective date of federal regulations that allow the placement of video event recorders at the top of the windshield on commercial motor vehicles, the exemption provided by the bill would become operative.

(3) 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. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The Federal Motor Carrier Safety Administration (FMCSA)
- 4 in the United State Department of Transportation has an exemption
- 5 for commercial motor vehicles that allows video event recorders
- 6 to be mounted not more than 50mm (two inches) below the upper
- 7 edge of the area swept by the windshield wipers, and located
- 8 outside the driver’s sight lines to the road and highway signs and
- 9 signals.

1 (b) The FMCSA cited studies of video event recorder usage that
2 resulted in reductions in safety-related events of 38 percent for
3 one carrier and 52 percent for another, and reductions in severe
4 safety-related events of 59 and 44 percent, respectively.

5 (c) It is the intent of the Legislature to adopt an equivalent policy
6 for commercial motor vehicles operating in California.

7 SEC. 2. Section 26708 of the Vehicle Code is amended to read:

8 26708. (a) (1) A person shall not drive any motor vehicle with
9 any object or material placed, displayed, installed, affixed, or
10 applied upon the windshield or side or rear windows.

11 (2) A person shall not drive any motor vehicle with any object
12 or material placed, displayed, installed, affixed, or applied in or
13 upon the vehicle that obstructs or reduces the driver's clear view
14 through the windshield or side windows.

15 (3) This subdivision applies to a person driving a motor vehicle
16 with the driver's clear vision through the windshield, or side or
17 rear windows, obstructed by snow or ice.

18 (b) This section does not apply to any of the following:

19 (1) Rearview mirrors.

20 (2) Adjustable nontransparent sunvisors that are mounted
21 forward of the side windows and are not attached to the glass.

22 (3) Signs, stickers, or other materials that are displayed in a
23 seven-inch square in the lower corner of the windshield farthest
24 removed from the driver, signs, stickers, or other materials that
25 are displayed in a seven-inch square in the lower corner of the rear
26 window farthest removed from the driver, or signs, stickers, or
27 other materials that are displayed in a five-inch square in the lower
28 corner of the windshield nearest the driver.

29 (4) Side windows that are to the rear of the driver.

30 (5) Direction, destination, or terminus signs upon a passenger
31 common carrier motor vehicle or a schoolbus, if those signs do
32 not interfere with the driver's clear view of approaching traffic.

33 (6) Rear window wiper motor.

34 (7) Rear trunk lid handle or hinges.

35 (8) The rear window or windows, if the motor vehicle is
36 equipped with outside mirrors on both the left- and right-hand
37 sides of the vehicle that are so located as to reflect to the driver a
38 view of the highway through each mirror for a distance of at least
39 200 feet to the rear of the vehicle.

1 (9) A clear, transparent lens affixed to the side window opposite
2 the driver on a vehicle greater than 80 inches in width and that
3 occupies an area not exceeding 50 square inches of the lowest
4 corner toward the rear of that window and that provides the driver
5 with a wide-angle view through the lens.

6 (10) Sun screening devices meeting the requirements of Section
7 26708.2 installed on the side windows on either side of the
8 vehicle's front seat, if the driver or a passenger in the front seat
9 has in his or her possession a letter or other document signed by
10 a licensed physician and surgeon certifying that the person must
11 be shaded from the sun due to a medical condition, or has in his
12 or her possession a letter or other document signed by a licensed
13 optometrist certifying that the person must be shaded from the sun
14 due to a visual condition. The devices authorized by this paragraph
15 shall not be used during darkness.

16 (11) An electronic communication device affixed to the center
17 uppermost portion of the interior of a windshield within an area
18 that is not greater than five inches square, if the device provides
19 either of the following:

20 (A) The capability for enforcement facilities of the Department
21 of the California Highway Patrol to communicate with a vehicle
22 equipped with the device.

23 (B) The capability for electronic toll and traffic management
24 on public or private roads or facilities.

25 (12) A portable Global Positioning System (GPS), which may
26 be mounted in a seven-inch square in the lower corner of the
27 windshield farthest removed from the driver or in a five-inch square
28 in the lower corner of the windshield nearest to the driver and
29 outside of an airbag deployment zone, if the system is used only
30 for door-to-door navigation while the motor vehicle is being
31 operated.

32 (13) (A) A video event recorder with the capability of
33 monitoring driver performance to improve driver safety, ~~which~~
34 *that* may be mounted in a seven-inch square in the lower corner
35 of the windshield farthest removed from the driver, in a five-inch
36 square in the lower corner of the windshield nearest to the driver
37 and outside of an airbag deployment zone, or in a five-inch square
38 mounted to the center uppermost portion of the interior of the
39 windshield. As used in this ~~section~~ *paragraph*, "video event
40 recorder" means a video recorder that continuously records in a

1 digital loop, recording audio, video, and G-force levels, but saves
2 video only when triggered by an unusual motion or crash or when
3 operated by the driver to monitor driver performance.

4 (B) A vehicle equipped with a video event recorder shall have
5 a notice posted in a visible location which states that a passenger's
6 conversation may be recorded.

7 (C) Video event recorders shall store no more than 30 seconds
8 before and after a triggering event.

9 (D) The registered owner or lessee of the vehicle may disable
10 the device.

11 (E) The data recorded to the device is the property of the
12 registered owner or lessee of the vehicle.

13 (F) When a person is driving for hire as an employee in a vehicle
14 with a video event recorder, the person's employer shall provide
15 ~~unedited copies of an opportunity to view~~ the recordings upon the
16 request of the employee or the employee's representative. ~~These~~
17 ~~copies, if the request is received within 90 days from the date when~~
18 ~~the recording was created. This viewing opportunity shall be~~
19 provided free of charge to the employee ~~and~~ within five days of
20 the request.

21 (14) (A) *A video event recorder in a commercial motor vehicle*
22 *with the capability of monitoring driver performance to improve*
23 *driver safety, that may be mounted no more than two inches below*
24 *the upper edge of the area swept by the windshield wipers, and*
25 *outside the driver's sight lines to the road and highway signs and*
26 *signals. Subparagraphs (B) to (F), inclusive, of paragraph (13)*
27 *apply to the exemption provided by this paragraph.*

28 (B) *Except as provided in subparagraph (C), subparagraph (A)*
29 *shall become inoperative on the following dates, whichever date*
30 *is later:*

31 (i) *The date that the Department of the California Highway*
32 *Patrol determines is the expiration date of the exemption from the*
33 *requirements of paragraph (1) of subdivision (e) of Section 393.60*
34 *of Title 49 of the Code of Federal Regulations, as renewed in the*
35 *notice of the Federal Motor Carrier Safety Administration on*
36 *pages 21791 and 21792 of Volume 76 of the Federal Register*
37 *(April 18, 2011).*

38 (ii) *The date that the Department of the California Highway*
39 *Patrol determines is the expiration date for a subsequent renewal*
40 *of an exemption specified in clause (i).*

1 (C) Notwithstanding subparagraph (B), subparagraph (A) shall
 2 become operative on the date that the Department of the California
 3 Highway Patrol determines is the effective date of regulations
 4 revising paragraph (1) of subdivision (e) of Section 393.60 of Title
 5 49 of the Code of Federal Regulations to allow the placement of
 6 a video event recorder at the top of the windshield on a commercial
 7 motor vehicle.

8 (c) Notwithstanding subdivision (a), transparent material may
 9 be installed, affixed, or applied to the topmost portion of the
 10 windshield if the following conditions apply:

11 (1) The bottom edge of the material is at least 29 inches above
 12 the undepressed driver’s seat when measured from a point five
 13 inches in front of the bottom of the backrest with the driver’s seat
 14 in its rearmost and lowermost position with the vehicle on a level
 15 surface.

16 (2) The material is not red or amber in color.

17 (3) There is no opaque lettering on the material and any other
 18 lettering does not affect primary colors or distort vision through
 19 the windshield.

20 (4) The material does not reflect sunlight or headlight glare into
 21 the eyes of occupants of oncoming or following vehicles to any
 22 greater extent than the windshield without the material.

23 (d) Notwithstanding subdivision (a), clear, colorless, and
 24 transparent material may be installed, affixed, or applied to the
 25 front side windows, located to the immediate left and right of the
 26 front seat if the following conditions are met:

27 (1) The material has a minimum visible light transmittance of
 28 88 percent.

29 (2) The window glazing with the material applied meets all
 30 requirements of Federal Motor Vehicle Safety Standard No. 205
 31 (49 C.F.R. 571.205), including the specified minimum light
 32 transmittance of 70 percent and the abrasion resistance of AS-14
 33 glazing, as specified in that federal standard.

34 (3) The material is designed and manufactured to enhance the
 35 ability of the existing window glass to block the sun’s harmful
 36 ultraviolet A rays.

37 (4) The driver has in his or her possession, or within the vehicle,
 38 a certificate signed by the installing company certifying that the
 39 windows with the material installed meet the requirements of this
 40 subdivision and the certificate identifies the installing company

1 and the material’s manufacturer by full name and street address,
2 or, if the material was installed by the vehicle owner, a certificate
3 signed by the material’s manufacturer certifying that the windows
4 with the material installed according to manufacturer’s instructions
5 meet the requirements of this subdivision and the certificate
6 identifies the material’s manufacturer by full name and street
7 address.

8 (5) If the material described in this subdivision tears or bubbles,
9 or is otherwise worn to prohibit clear vision, it shall be removed
10 or replaced.

11 SEC. 3. No reimbursement is required by this act pursuant to
12 Section 6 of Article XIII B of the California Constitution because
13 the only costs that may be incurred by a local agency or school
14 district will be incurred because this act creates a new crime or
15 infraction, eliminates a crime or infraction, or changes the penalty
16 for a crime or infraction, within the meaning of Section 17556 of
17 the Government Code, or changes the definition of a crime within
18 the meaning of Section 6 of Article XIII B of the California
19 Constitution.