

Assembly Bill No. 2489

Passed the Assembly August 29, 2012

Chief Clerk of the Assembly

Passed the Senate August 28, 2012

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 19.8 of the Penal Code, and to amend Sections 4464, 5201, and 5201.1 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL’S DIGEST

AB 2489, Hall. Vehicles: license plates: obstruction or alteration.

(1) Existing law prohibits a person from displaying upon a vehicle a license plate altered from its original markings. Existing law also prohibits a person from selling a product or device that obscures, or is intended to obscure, the reading or recognition of a license plate, as specified. A violation of these provisions is an infraction and the penalty for the first conviction of an infraction under the Vehicle Code is a fine not exceeding \$100.

This bill would additionally prohibit a person from selling a product or device that obscures, or is intended to obscure, the reading or recognition of a license plate by visual means. The bill would also prohibit a person from operating a vehicle with such a product or device and would make it a crime for a person to erase the reflective coating of, paint over the reflective coating of, or alter a license plate to avoid visual or electronic capture of the license plate or its characters by state or local law enforcement.

By creating new crimes and expanding the definition of an existing crime, the bill would impose a state-mandated local program. The bill would provide that a violation of these prohibitions is punishable by a fine of not more than \$250 per item sold or per violation and would provide that these offenses are subject to specified procedures with regard to a defendant electing to have the case proceed as a misdemeanor.

(2) Existing law authorizes a prosecutor to file specified misdemeanors as infractions unless the defendant elects to have the case proceed as a misdemeanor, and authorizes the court, with the consent of the defendant, to determine that the offense is an infraction.

This bill would make technical, nonsubstantive changes to these provisions by updating cross-references and deleting obsolete provisions.

(3) This bill would incorporate additional changes to Section 5201 of the Vehicle Code proposed by AB 2679, to become operative if both AB 2679 and this bill are chaptered and become effective on or before January 1, 2013, and this bill is chaptered last.

(4) 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.

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

SECTION 1. Section 19.8 of the Penal Code is amended to read:

19.8. (a) The following offenses are subject to subdivision (d) of Section 17: Sections 193.8, 330, 415, 485, 490.7, 555, 602.13, and 853.7 of this code; subdivision (c) of Section 532b, and subdivision (o) of Section 602 of this code; subdivision (b) of Section 25658 and Sections 21672, 25661, and 25662 of the Business and Professions Code; Section 27204 of the Government Code; subdivision (c) of Section 23109 and Sections 5201.1, 12500, 14601.1, 27150.1, 40508, and 42005 of the Vehicle Code, and any other offense that the Legislature makes subject to subdivision (d) of Section 17. Except where a lesser maximum fine is expressly provided for a violation of those sections, a violation that is an infraction is punishable by a fine not exceeding two hundred fifty dollars (\$250).

(b) Except for the violations enumerated in subdivision (d) of Section 13202.5 of the Vehicle Code, and Section 14601.1 of the Vehicle Code based upon failure to appear, a conviction for an offense made an infraction under subdivision (d) of Section 17 is not grounds for the suspension, revocation, or denial of a license, or for the revocation of probation or parole of the person convicted.

SEC. 2. Section 4464 of the Vehicle Code is amended to read:

4464. A person shall not display upon a vehicle a license plate that is altered from its original markings.

SEC. 3. Section 5201 of the Vehicle Code is amended to read:

5201. (a) License plates shall at all times be securely fastened to the vehicle for which they are issued so as to prevent the plates from swinging, shall be mounted in a position so as to be clearly visible, and so that the characters are upright and display from left to right, and shall be maintained in a condition so as to be clearly legible. The rear license plate shall be mounted not less than 12 inches nor more than 60 inches from the ground, and the front license plate shall be mounted not more than 60 inches from the ground, except as follows:

(1) The rear license plate on a tow truck or reposessor's tow vehicle may be mounted on the left-hand side of the mast assembly at the rear of the cab of the vehicle, not less than 12 inches nor more than 90 inches from the ground.

(2) The rear license plate on a tank vehicle hauling hazardous waste, as defined in Section 25117 of the Health and Safety Code, or asphalt material may be mounted not less than 12 inches nor more than 90 inches from the ground.

(3) The rear license plate on a truck tractor may be mounted at the rear of the cab of the vehicle, but not less than 12 inches nor more than 90 inches from the ground.

(4) The rear license plate of a vehicle designed by the manufacturer for the collection and transportation of garbage, rubbish, or refuse that is used regularly for the collection and transportation of that material by a person or governmental entity employed to collect, transport, and dispose of garbage, rubbish, or refuse may be mounted not less than 12 inches nor more than 90 inches from the ground.

(5) The rear license plate on a two-axle livestock trailer may be mounted 12 inches or more, but not more than 90 inches, from the ground.

(b) A covering shall not be used on license plates except as follows:

(1) The installation of a cover over a lawfully parked vehicle to protect it from the weather and the elements does not constitute a violation of this subdivision. A peace officer or other regularly salaried employee of a public agency designated to enforce laws, including local ordinances, relating to the parking of vehicles may temporarily remove so much of the cover as is necessary to inspect any license plate, tab, or indicia of registration on a vehicle.

(2) The installation of a license plate security cover is not a violation of this subdivision if the device does not obstruct or impair the recognition of the license plate information, including, but not limited to, the issuing state, license plate number, and registration tabs, and the cover is limited to the area directly over the top of the registration tabs. No portion of a license plate security cover shall rest over the license plate number.

(c) A casing, shield, frame, border, product, or other device that obstructs or impairs the reading or recognition of a license plate by an electronic device operated by state or local law enforcement, an electronic device operated in connection with a toll road, high-occupancy toll lane, toll bridge, or other toll facility, or a remote emission sensing device, as specified in Sections 44081 and 44081.6 of the Health and Safety Code, shall not be installed on, or affixed to, a vehicle.

(d) (1) It is the intent of the Legislature that an accommodation be made to persons with disabilities and to those persons who regularly transport persons with disabilities, to allow the removal and relocation of wheelchair lifts and wheelchair carriers without the necessity of removing and reattaching the vehicle's rear license plate. Therefore, it is not a violation of this section if the reading or recognition of a rear license plate is obstructed or impaired by a wheelchair lift or wheelchair carrier and all of the following requirements are met:

(A) The owner of the vehicle has been issued a special identification license plate pursuant to Section 5007, or the person using the wheelchair that is carried on the vehicle has been issued a distinguishing placard under Section 22511.55.

(B) (i) The operator of the vehicle displays a decal, designed and issued by the department, that contains the license plate number assigned to the vehicle transporting the wheelchair.

(ii) The decal is displayed on the rear window of the vehicle, in a location determined by the department, in consultation with the Department of the California Highway Patrol, so as to be clearly visible to law enforcement.

(2) Notwithstanding any other law, if a decal is displayed pursuant to this subdivision, the requirements of this code that require the illumination of the license plate and the license plate number do not apply.

(3) The department shall adopt regulations governing the procedures for accepting and approving applications for decals, and issuing decals, authorized by this subdivision.

(4) This subdivision does not apply to a front license plate.

SEC. 3.5. Section 5201 of the Vehicle Code is amended to read:

5201. (a) License plates shall at all times be securely fastened to the vehicle for which they are issued so as to prevent the plates from swinging, shall be mounted in a position so as to be clearly visible, and so that the characters are upright and display from left to right, and shall be maintained in a condition so as to be clearly legible. The rear license plate shall be mounted not less than 12 inches nor more than 60 inches from the ground, and the front license plate shall be mounted not more than 60 inches from the ground, except as follows:

(1) The rear license plate on a tow truck or reposessor's tow vehicle may be mounted on the left-hand side of the mast assembly at the rear of the cab of the vehicle, not less than 12 inches nor more than 90 inches from the ground.

(2) The rear license plate on a tank vehicle hauling hazardous waste, as defined in Section 25117 of the Health and Safety Code, or asphalt material may be mounted not less than 12 inches nor more than 90 inches from the ground.

(3) The rear license plate on a truck tractor may be mounted at the rear of the cab of the vehicle, but not less than 12 inches nor more than 90 inches from the ground.

(4) The rear license plate of a vehicle designed by the manufacturer for the collection and transportation of garbage, rubbish, or refuse that is used regularly for the collection and transportation of that material by a person or governmental entity employed to collect, transport, and dispose of garbage, rubbish, or refuse may be mounted not less than 12 inches nor more than 90 inches from the ground.

(5) The rear license plate on a two-axle livestock trailer may be mounted 12 inches or more, but not more than 90 inches, from the ground.

(6) (A) The rear license plate on a dump bed motortruck equipped with a trailing, load bearing swing axle shall be mounted more than 12 inches, but not more than 107 inches, from the ground.

(B) As used in this section, a trailing, load bearing swing axle is an axle which can be moved from a raised position to a position behind the vehicle that allows for the transfer of a portion of the weight of the vehicle and load to the trailing axle.

(b) A covering shall not be used on license plates except as follows:

(1) The installation of a cover over a lawfully parked vehicle to protect it from the weather and the elements does not constitute a violation of this subdivision. A peace officer or other regularly salaried employee of a public agency designated to enforce laws, including local ordinances, relating to the parking of vehicles may temporarily remove so much of the cover as is necessary to inspect any license plate, tab, or indicia of registration on a vehicle.

(2) The installation of a license plate security cover is not a violation of this subdivision if the device does not obstruct or impair the recognition of the license plate information, including, but not limited to, the issuing state, license plate number, and registration tabs, and the cover is limited to the area directly over the top of the registration tabs. No portion of a license plate security cover shall rest over the license plate number.

(c) A casing, shield, frame, border, product, or other device that obstructs or impairs the reading or recognition of a license plate by an electronic device operated by state or local law enforcement, an electronic device operated in connection with a toll road, high-occupancy toll lane, toll bridge, or other toll facility, or a remote emission sensing device, as specified in Sections 44081 and 44081.6 of the Health and Safety Code, shall not be installed on, or affixed to, a vehicle.

(d) (1) It is the intent of the Legislature that an accommodation be made to persons with disabilities and to those persons who regularly transport persons with disabilities, to allow the removal and relocation of wheelchair lifts and wheelchair carriers without the necessity of removing and reattaching the vehicle's rear license plate. Therefore, it is not a violation of this section if the reading or recognition of a rear license plate is obstructed or impaired by a wheelchair lift or wheelchair carrier and all of the following requirements are met:

(A) The owner of the vehicle has been issued a special identification license plate pursuant to Section 5007, or the person

using the wheelchair that is carried on the vehicle has been issued a distinguishing placard under Section 22511.55.

(B) (i) The operator of the vehicle displays a decal, designed and issued by the department, that contains the license plate number assigned to the vehicle transporting the wheelchair.

(ii) The decal is displayed on the rear window of the vehicle, in a location determined by the department, in consultation with the Department of the California Highway Patrol, so as to be clearly visible to law enforcement.

(2) Notwithstanding any other law, if a decal is displayed pursuant to this subdivision, the requirements of this code that require the illumination of the license plate and the license plate number do not apply.

(3) The department shall adopt regulations governing the procedures for accepting and approving applications for decals, and issuing decals, authorized by this subdivision.

(4) This subdivision does not apply to a front license plate.

SEC. 4. Section 5201.1 of the Vehicle Code is amended to read:

5201.1. (a) A person shall not sell a product or device that obscures, or is intended to obscure, the reading or recognition of a license plate by visual means, or by an electronic device as prohibited by subdivision (c) of Section 5201.

(b) A person shall not operate a vehicle with a product or device that violates subdivision (a).

(c) A person shall not erase the reflective coating of, paint over the reflective coating of, or alter a license plate to avoid visual or electronic capture of the license plate or its characters by state or local law enforcement.

(d) A conviction for a violation of this section is punishable by a fine of two hundred fifty dollars (\$250) per item sold or per violation.

SEC. 5. Section 3.5 of this bill incorporates amendments to Section 5201 of the Vehicle Code proposed by both this bill and Assembly Bill 2679. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 5201 of the Vehicle Code, and (3) this bill is enacted after Assembly Bill 2679, in which case Section 3 of this bill shall not become operative.

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

Approved _____, 2012

Governor