

AMENDED IN ASSEMBLY APRIL 24, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 179

Introduced by Assembly Members Bocanegra and Levine

January 24, 2013

An act to amend Section 31490 of, to amend the heading of Chapter 8 (commencing with Section 31490) of Division 17 of, and to amend the heading of Division 17 (commencing with Section 30000) of, the Streets and Highways Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 179, as amended, Bocanegra. Public transit: electronic transit fare collection systems: disclosure of personal information.

Existing law prohibits a transportation agency from selling or providing personally identifiable information of a person obtained through the person's participation in an electronic toll collection system or use of a toll facility that uses an electronic toll collection system. Existing law, with certain exceptions, requires a transportation agency to discard personally identifiable information ~~after 4 1/2~~ *within 4 1/2* years, as specified. Existing law provides various remedies in that regard.

This bill would make these and other related provisions applicable to a transportation agency that employs an electronic transit fare collection system for payment of transit fares. ~~The bill would require transportation agencies that obtain personally identifiable information of a person from electronic toll collection or electronic transit fare collection systems to discard that information after 6 months, as specified.~~

By imposing new duties on local transportation agencies, 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. The heading of Division 17 (commencing with
2 Section 30000) of the Streets and Highways Code is amended to
3 read:

4
5 DIVISION 17. TOLL FACILITIES AND RELATED
6 MATTERS
7

8 SEC. 2. The heading of Chapter 8 (commencing with Section
9 31490) of Division 17 of the Streets and Highways Code is
10 amended to read:

11
12 CHAPTER 8. ELECTRONIC TOLL COLLECTION AND ELECTRONIC
13 TRANSIT FARE COLLECTION SYSTEMS
14

15 SEC. 3. Section 31490 of the Streets and Highways Code is
16 amended to read:

17 31490. (a) Except as otherwise provided in this section, a
18 transportation agency may not sell or otherwise provide to any
19 other person or entity personally identifiable information of any
20 person who subscribes to an electronic toll or electronic transit
21 fare collection system or who uses a toll bridge, toll lane, or toll
22 highway that employs an electronic toll collection system or who
23 uses a public transportation system that employs an electronic
24 transit fare collection system.

25 (b) A transportation agency that employs an electronic toll
26 collection or an electronic transit fare collection system shall
27 establish a privacy policy regarding the collection and use of
28 personally identifiable information and provide to subscribers of

1 that system a copy of the privacy policy in a manner that is
2 conspicuous and meaningful, such as by providing a copy to the
3 subscriber with the transponder, electronic transit pass, or other
4 device used as an electronic toll or transit fare collection
5 mechanism, or, if the system does not use a mechanism, with the
6 application materials. A transportation agency shall conspicuously
7 post its privacy policy on its Internet Web site. For purposes of
8 this subdivision, “conspicuously post” has the same meaning as
9 that term is defined in paragraphs (1) to (4), inclusive, of
10 subdivision (b) of Section 22577 of the Business and Professions
11 Code. The policy shall include, but need not be limited to, a
12 description of the following:

13 (1) The types of personally identifiable information that is
14 collected by the agency.

15 (2) The categories of third-party persons or entities with whom
16 the agency may share personally identifiable information.

17 (3) The process by which a transportation agency notifies
18 subscribers of material changes to its privacy policy.

19 (4) The effective date of the privacy policy.

20 (5) The process by which a subscriber may review and request
21 changes to any of his or her personally identifiable information.

22 (c) A transportation agency may, within practical business and
23 cost constraints, store only personally identifiable information of
24 a person such as, to the extent applicable, the account name, credit
25 card number, billing address, vehicle information, and other basic
26 account information required to perform account functions such
27 as billing, account settlement, or enforcement activities. All other
28 information shall be discarded no more than *four years and six*
29 *months* after the billing cycle has concluded, the bill has been paid,
30 and all toll violations, if applicable, have been resolved.

31 (d) A transportation agency shall ~~take~~ *make* every effort, within
32 practical business and cost constraints, to purge the personal
33 account information of an account that is closed or terminated. In
34 no case shall a transportation agency maintain personal information
35 more than *four years and six months* after the date an account is
36 closed or terminated.

37 (e) (1) A transportation agency may make personally
38 identifiable information of a person available to a law enforcement
39 agency only pursuant to a search warrant. Absent a provision in
40 the search warrant to the contrary, the law enforcement agency

1 shall immediately, but in any event within no more than five days,
2 notify the person that his or her records have been obtained and
3 shall provide the person with a copy of the search warrant and the
4 identity of the law enforcement agency or peace officer to whom
5 the records were provided.

6 (2) This section does not prohibit a peace officer, as defined in
7 Section 830.1 or 830.2 of the Penal Code, when conducting a
8 criminal or traffic collision investigation, from obtaining personally
9 identifiable information of a person if the officer has good cause
10 to believe that a delay in obtaining this information by seeking a
11 search warrant would cause an adverse result, as defined in
12 paragraph (2) of subdivision (a) of Section 1524.2 of the Penal
13 Code.

14 (f) This section does not prohibit a transportation agency in
15 subdivision (a) from providing aggregated traveler information
16 derived from collective data that relates to a group or category of
17 persons from which personally identifiable information has been
18 removed.

19 (g) This section does not prohibit a transportation agency, with
20 respect to an electronic toll collection system, from providing the
21 license plate number of an intermodal chassis to the owner of the
22 chassis for purposes of locating the driver of the chassis in the
23 event the driver fails to pay a toll.

24 (h) This section, with respect to an electronic toll collection
25 system, does not prohibit a transportation agency from sharing
26 data with another transportation agency solely to comply with
27 interoperability specifications and standards adopted pursuant to
28 Section 27565 regarding electronic toll collection devices and
29 technologies. A third-party vendor may not use personally
30 identifiable information obtained under this subdivision for a
31 purpose other than described in this subdivision.

32 (i) Subdivision (d) shall not prohibit a transportation agency,
33 or its designee, from performing financial and accounting functions
34 such as billing, account settlement, enforcement, or other financial
35 activities required to operate and manage the toll facilities or transit
36 operations. *This section, with respect to electronic transit fare
37 collection systems, does not prohibit the sharing of data between
38 transportation agencies for the sole purpose of interoperability
39 between those agencies. A third-party vendor may not use*

1 *personally identifiable information obtained under this subdivision*
2 *for a purpose other than as described in this subdivision.*

3 (j) This section does not prohibit a transportation agency from
4 communicating about products and services offered by itself, a
5 business partner, or the agency with which it contracts to
6 subscribers of the transportation agency through a contracted
7 third-party vendor using personally identifiable information limited
8 to the subscriber's name, address, and electronic mail address,
9 provided that the transportation agency has received the
10 subscriber's express written consent to receive the communications.

11 (k) A transportation agency may not use a nonsubscriber's
12 personally identifiable information obtained using an electronic
13 toll collection or electronic transit fare collection system to market
14 products or services to that nonsubscriber. This subdivision shall
15 not apply to toll-related products or services contained in a notice
16 of toll evasion issued pursuant to Section 23302 of the Vehicle
17 Code.

18 (l) For purposes of this section, "transportation agency" means
19 the Department of Transportation, the Bay Area Toll Authority,
20 any entity operating a toll bridge, toll lane, or toll highway within
21 the state, any transportation agency administering an electronic
22 transit fare collection system and any transit operator participating
23 in that system, or any entity under contract with any of the above
24 entities.

25 (m) For purposes of this section, "electronic toll collection
26 system" is a system where a transponder, camera-based vehicle
27 identification system, or other electronic medium is used to deduct
28 payment of a toll from a subscriber's account or to establish an
29 obligation to pay a toll, and "electronic transit fare collection
30 system" means a system for issuing an electronic transit pass that
31 enables a transit passenger subscriber to use the transit systems of
32 one or more participating transit operators without having to pay
33 individual fares, where fares are instead deducted from the
34 subscriber's account as loaded onto the electronic transit pass.

35 (n) For purposes of this section, "person" means any person
36 who subscribes to an electronic toll collection or electronic transit
37 fare collection system or any person who uses a toll bridge, toll
38 lane, or toll road that employs an electronic toll collection system
39 or who uses a public transportation system that participates in an
40 electronic transit fare collection system.

1 (o) For purposes of this section, “personally identifiable
2 information” means any information that identifies or describes a
3 person including, but not limited to, travel pattern data, address,
4 telephone number, email address, license plate number, photograph,
5 bank account information, or credit card number.

6 (p) (1) In addition to any other remedies provided by law, a
7 person whose personally identifiable information has been
8 knowingly sold or otherwise provided in violation of this section
9 may bring an action to recover either actual damages or two
10 thousand five hundred dollars (\$2,500) for each individual
11 violation, whichever is greater, and may also recover reasonable
12 costs and attorney’s fees.

13 (2) A person whose personally identifiable information has been
14 knowingly sold or otherwise provided three or more times in
15 violation of this section may bring an action to recover either actual
16 damages or four thousand dollars (\$4,000) for each individual
17 violation, whichever is greater, and may also recover reasonable
18 costs and attorney’s fees.

19 (q) Nothing in subdivisions (c) and (d) shall preclude compliance
20 with a court order or settlement agreement that has been approved
21 on or before April 25, 2010.

22 (r) A transportation agency that employs an electronic toll
23 collection or electronic transit fare collection system may impose
24 an administrative fee on persons who use those systems in an
25 amount sufficient to cover the cost of implementing this section.

26 SEC. 4. No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 a local agency or school district has the authority to levy service
29 charges, fees, or assessments sufficient to pay for the program or
30 level of service mandated by this act, within the meaning of Section
31 17556 of the Government Code.

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