

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 666

Introduced by Assembly Member Wieckowski

February 21, 2013

An act to amend ~~Section 21455.5 of the Vehicle Code, relating to vehicles. Sections 21455.5, 22451, 40518, and 40520 of,~~ to add Sections 212, 12810.1, 40518.5, 40518.6, 40520.5, 40520.6, and 40520.7 to, and to add Article 6.6 (commencing with Section 4780) to Chapter 1 of Division 3 of, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 666, as amended, Wieckowski. Automated traffic enforcement ~~systems. systems: violations.~~

(1) Existing law authorizes a governmental agency to equip the limit line, intersection, or other places where a driver is required to stop with an automated traffic enforcement system if the system meets certain requirements, and provides a procedure for criminal adjudication of alleged violations recorded by that system. Existing law establishes that specified convictions and violations under the Vehicle Code and traffic-related incidents count as points against a driver's record for purposes of the suspension or revocation of the privilege to drive and that certain other violations do not result in a violation point.

This bill would instead require violations recorded by an automated traffic enforcement system to be cited as civil violations, subject to a civil penalty, administrative process, and appeal in superior court. The bill would exempt certain of those civil violations from the violation point count process. This bill would also provide that if payment of an automated violation penalty is not received as specified on the notice

of automated violation, the issuing agency may assess a delinquent fee and must serve a notice of delinquent automated violation.

(2) Existing law requires the Department of Motor Vehicles to refuse to renew the registration of a vehicle if, among other things, the registered owner or lessee has been mailed a notice of delinquent parking or a notice of toll evasion violation, unless the full amount of all outstanding penalties and administrative fees are paid to the department at the time of application for renewal, except as provided.

This bill would similarly require the Department of Motor Vehicles to refuse to renew the registration of a vehicle if the registered owner or lessee has been mailed a notice of automated violation, as specified, unless the full amount of all outstanding automated violation penalties and administrative fees are paid to the department, except as provided. The bill would require the department to include on each vehicle renewal notice, or on an accompanying document, an itemization of unpaid automated penalties, the jurisdiction that issued the notice of automated violation, and the date of the automated violation. The bill would require the department to remit all automated violation penalties and administrative fees collected, except certain fees to cover its costs, to each jurisdiction, as specified.

~~Existing law authorizes the limit line, intersection, or other places where a driver is required to stop to be equipped with an automated traffic enforcement system 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.~~

~~This bill would make technical, nonsubstantive changes to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
 State-mandated local program: no.

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

- 1 SECTION 1. Section 212 is added to the Vehicle Code, to read:
- 2 212. An “automated violation” is a violation of Section 21453,
- 3 21455, 22101, or 22451 that is recorded by an automated traffic
- 4 enforcement system authorized pursuant to Section 21455.5 or
- 5 22451, and subject to citation as a civil violation under Section
- 6 40518.

1 *SEC. 2. Article 6.6 (commencing with Section 4780) is added*
2 *to Chapter 1 of Division 3 of the Vehicle Code, to read:*

3
4 *Article 6.6. Refusal of Registration for Nonpayment of*
5 *Automated Violation Penalties*
6

7 4780. (a) *Except as provided in subdivision (b) or (c), the*
8 *department shall refuse to renew the registration of a vehicle if*
9 *the registered owner or lessee has been mailed a notice of*
10 *automated violation, the issuing agency has transmitted to the*
11 *department an itemization of unpaid automated violation penalties,*
12 *including administrative fees, pursuant to Section 40520.7, and*
13 *the automated violation penalty and administrative fee have not*
14 *been paid pursuant to Section 40520.5, unless the full amount of*
15 *all outstanding automated violation penalties and administrative*
16 *fees, as shown by records of the department, are paid to the*
17 *department at the time of application for renewal.*

18 (b) *The department shall renew the registration of a vehicle if*
19 *the applicant provides the department with the notice of the*
20 *disposition of the automated violation or violations, clearing all*
21 *outstanding automated penalties and administrative fees, as shown*
22 *by the records of the department, and the applicant has met all*
23 *other requirements for registration.*

24 (c) *The department shall not refuse to renew the registration of*
25 *a vehicle if the automated violation occurred prior to the date that*
26 *the registered owner or lessee took possession of the vehicle.*

27 4781. *The department shall include on each vehicle registration*
28 *renewal notice issued for use at the time of renewal, or on an*
29 *accompanying document, an itemization of unpaid automated*
30 *violation penalties, including administrative fees, the amounts of*
31 *the penalties and fees, the jurisdiction that issued the notice of*
32 *automated violation, and the date of the automated violation, that*
33 *the registered owner or lessee is required to pay pursuant to*
34 *Section 4780.*

35 4782. *The department shall remit all automated violation*
36 *penalties and administrative fees collected, after deducting the*
37 *administrative fee authorized by Section 4783, for each notice of*
38 *delinquent automated violation for which automated penalties and*
39 *administrative fees have been collected pursuant to Section 4780,*
40 *to each jurisdiction in the amounts due to each jurisdiction*

1 according to its unadjudicated notices of delinquent automated
2 violation. Within 45 days from the time penalties are recorded by
3 the department, the department shall inform each jurisdiction
4 which of its notices of delinquent automated violation have been
5 discharged.

6 4783. The department shall assess a fee for the recording of
7 the notice of delinquent automated violation, which is given to the
8 department pursuant to Section 40520.7 in an amount, as
9 determined by the department, that is sufficient to provide a total
10 amount equal to its actual costs of administering Sections 4780,
11 4781, and 4782.

12 SEC. 3. Section 12810.1 is added to the Vehicle Code, to read:

13 12810.1. (a) A violation point shall be imposed, in accordance
14 with Section 12810, for an automated violation that is cited as a
15 civil violation under Section 40518, and is not canceled or
16 dismissed under Section 40518.5, against either of the following:

17 (1) The registered owner of the vehicle, if the registered owner
18 was the driver of the vehicle at the time the automated violation
19 occurred.

20 (2) The driver of the vehicle at the time the automated violation
21 occurred, who is validly identified as the driver.

22 (b) Notwithstanding any other law, although the registered
23 owner of a vehicle is liable for payment of a civil penalty for an
24 automated violation pursuant to subdivision (b) of Section 40518,
25 a violation point shall not be imposed against the registered owner
26 of a vehicle for an automated violation if both of the following
27 apply:

28 (1) The registered owner was not the driver of the vehicle at
29 the time the automated violation occurred.

30 (2) The registered owner is unable to validly identify the person
31 who was the driver of the vehicle at the time the automated
32 violation occurred.

33 SEC. 4. Section 21455.5 of the Vehicle Code is amended to
34 read:

35 21455.5. (a) The limit line, the intersection, or a place
36 designated in Section 21455, where a driver is required to stop,
37 may be equipped with an automated traffic enforcement system if
38 the governmental agency utilizing the system meets all of the
39 following requirements:

1 (1) Identifies the system by signs posted within ~~200~~ 500 feet of
2 an intersection where a system is operating that clearly indicate
3 the system's presence and are visible to traffic approaching from
4 all directions in which the automated traffic enforcement system
5 is being utilized to issue ~~citations~~ *notices of automated violation*.
6 A governmental agency utilizing such a system does not need to
7 post signs visible to traffic approaching the intersection from
8 directions not subject to the automated traffic enforcement system.
9 Automated traffic enforcement systems installed as of January 1,
10 2013, shall be identified no later than January 1, 2014.

11 (2) ~~Locates~~ *Installs* the system at an intersection and ensures
12 that the system meets the criteria specified in Section 21455.7.

13 (b) Prior to issuing ~~citations~~ *notices of automated violation*
14 under this section, a local ~~jurisdiction~~ *authority* utilizing an
15 automated traffic enforcement system shall commence a program
16 to issue only warning notices for 30 days. The local ~~jurisdiction~~
17 ~~shall~~ *authority* also *shall* make a public announcement of the
18 automated traffic enforcement system at least 30 days prior to the
19 commencement of the enforcement program.

20 (c) Only a governmental agency, in cooperation with a law
21 enforcement agency, may operate an automated traffic enforcement
22 system. A governmental agency that operates an automated traffic
23 enforcement system shall do all of the following:

24 (1) Develop uniform guidelines for screening and issuing
25 violations and for the processing and storage of confidential
26 information, and establish procedures to ensure compliance with
27 those guidelines. For systems installed as of January 1, 2013, a
28 governmental agency that operates an automated traffic
29 enforcement system shall establish those guidelines by January 1,
30 2014.

31 (2) Perform administrative functions and day-to-day functions,
32 including, but not limited to, all of the following:

33 (A) Establishing guidelines for the selection of a location. Prior
34 to installing an automated traffic enforcement system after January
35 1, 2013, the governmental agency shall make and adopt a finding
36 of fact establishing that the system is needed at a specific location
37 for reasons related to safety.

38 (B) Ensuring that the equipment is regularly inspected.

39 (C) Certifying that the equipment is properly installed and
40 calibrated, and is operating properly.

1 (D) Regularly inspecting and maintaining warning signs placed
2 ~~under~~ *in accordance with* paragraph (1) of subdivision (a).

3 (E) Overseeing the establishment or change of signal phases
4 and the timing thereof.

5 (F) Maintaining controls necessary to ensure that only those
6 ~~citations~~ *notices of automated violation* that have been reviewed
7 and approved by law enforcement are delivered to violators.

8 (d) The activities listed in subdivision (c) that relate to the
9 operation of the system may be contracted out by the governmental
10 agency, if it maintains overall control and supervision of the
11 system. However, the activities listed in paragraph ~~(1) of, (1),~~ and
12 subparagraphs (A), (D), (E), and (F) of paragraph ~~(2) of, (2), of~~
13 subdivision (c) shall not be contracted out to the manufacturer or
14 supplier of the automated traffic enforcement system.

15 (e) The printed representation of computer-generated
16 information, video, or photographic images stored by an automated
17 traffic enforcement system does not constitute an out-of-court
18 hearsay statement by a declarant under Division 10 (commencing
19 with Section 1200) of the Evidence Code.

20 (f) (1) Notwithstanding Section 6253 of the Government Code,
21 or any other law, photographic records made by an automated
22 traffic enforcement system ~~shall be~~ *are* confidential, and shall be
23 made available only to governmental agencies and law enforcement
24 agencies and only for the purposes of this article.

25 (2) Confidential information obtained from the Department of
26 Motor Vehicles for the administration or enforcement of this article
27 shall be held confidential, and shall not be used for any other
28 purpose.

29 (3) Except for court records described in Section 68152 of the
30 Government Code, the confidential records and information
31 described in paragraphs (1) and (2) may be retained for up to six
32 months from the date the information was first obtained, or until
33 final disposition of the ~~citation~~ *notice of automated violation*,
34 whichever date is later, after which time the information shall be
35 destroyed in a manner that will preserve the confidentiality of any
36 person included in the record or information.

37 (g) Notwithstanding subdivision (f), the registered owner or any
38 individual identified by the registered owner as the driver of the
39 vehicle at the time of the alleged violation shall be permitted to
40 review the photographic evidence of the alleged violation.

1 (h) (1) A contract between a governmental agency and a
2 manufacturer or supplier of automated traffic enforcement
3 equipment shall not include provision for the payment or
4 compensation to the manufacturer or supplier based on the number
5 of ~~citations~~ *notices of automated violation* generated, or as a
6 percentage of the revenue generated, as a result of the use of the
7 equipment authorized under this section.

8 (2) Paragraph (1) does not apply to a contract that was entered
9 into by a governmental agency and a manufacturer or supplier of
10 automated traffic enforcement equipment before January 1, 2004,
11 unless that contract is renewed, extended, or amended on or after
12 January 1, 2004.

13 (3) A governmental agency that proposes to install or operate
14 an automated traffic enforcement system shall not consider revenue
15 generation, beyond recovering its actual costs of operating the
16 system, as a factor when considering whether or not to install or
17 operate a system within its ~~local~~ jurisdiction.

18 (i) A manufacturer or supplier that operates an automated traffic
19 enforcement system pursuant to this section shall, in cooperation
20 with the governmental agency, submit an annual report to the
21 Judicial Council that includes, but is not limited to, all of the
22 following information if this information is in the possession of,
23 or readily available to, the manufacturer or supplier:

24 (1) The number of alleged violations captured by the systems
25 ~~they operate.~~ *the manufacturer or supplier operates.*

26 (2) The number of ~~citations~~ *notices of automated violation* issued
27 by a law enforcement agency based on information collected from
28 the automated traffic enforcement system.

29 (3) For ~~citations~~ *notices of automated violation* identified in
30 paragraph (2), the number of violations that involved traveling
31 straight through the intersection, turning right, and turning left.

32 (4) The number and percentage of ~~citations~~ *notices of automated*
33 *violation* that are dismissed by the court.

34 (5) The number of traffic collisions at each intersection that
35 occurred prior to, and after the installation of, the automated traffic
36 enforcement system.

37 (j) If a governmental agency utilizing an automated traffic
38 enforcement system has posted signs on or before January 1, 2013,
39 that met the requirements of paragraph (1) of subdivision (a) of
40 this section, as it read on January 1, 2012, the governmental agency

1 shall not remove those signs until signs are posted that meet the
 2 requirements specified in this section, as it reads on January 1,
 3 2013.

4 *SEC. 5. Section 22451 of the Vehicle Code is amended to read:*

5 22451. (a) The driver of any vehicle or pedestrian approaching
 6 a railroad or rail transit grade crossing shall stop not less than 15
 7 feet from the nearest rail and shall not proceed until he or she can
 8 do so safely, whenever the following conditions exist:

9 (1) A clearly visible electric or mechanical signal device or a
 10 ~~flagman~~ *flagperson* gives warning of the approach or passage of
 11 a train or car.

12 (2) An approaching train or car is plainly visible or is emitting
 13 an audible signal and, by reason of its speed or nearness, is an
 14 immediate hazard.

15 (b) No driver or pedestrian shall proceed through, around, or
 16 under any railroad or rail transit crossing gate while the gate is
 17 closed.

18 (c) Whenever a railroad or rail transit crossing is equipped with
 19 an automated *traffic* enforcement system, a notice of—*a an*
 20 *automated* violation of this section is subject to the procedures
 21 provided in Section 40518.

22 *SEC. 6. Section 40518 of the Vehicle Code is amended to read:*

23 ~~40518. (a) Whenever a~~
 24 *40518. (a) Notwithstanding any other law, a violation of*
 25 *Section 21453, 21455, 22101, or 22451 that is recorded by an*
 26 *automated traffic enforcement system authorized pursuant to*
 27 *Section 21455.5 or 22451 shall be subject only to a civil penalty*
 28 *as provided in subdivision (f).*

29 ~~(b) A written notice to appear has been~~ *of automated violation*
 30 *shall be* issued by a peace officer or by a qualified employee of a
 31 law enforcement agency on a form approved by the Judicial
 32 Council for an alleged violation of Section ~~22451, or, based on an~~
 33 ~~alleged violation of Section~~ *21453, 21455, 22101, or 22451*
 34 recorded by an automated traffic enforcement system pursuant to
 35 Section 21455.5 or 22451, and delivered by mail within 15 days
 36 of the alleged violation to the current address of the registered
 37 owner of the vehicle on file with the department, with a certificate
 38 of mailing obtained as evidence of ~~service, an exact~~ *service. Except*
 39 *as provided in paragraph (1) of subdivision (b) of Section 40520,*
 40 *and legible duplicate copy Section 40518.5, the registered owner*

1 of the notice when filed with the magistrate *vehicle* shall constitute
2 a complaint to which *be liable for payment of any civil penalty*
3 *assessed for the defendant may enter a plea. Preparation and*
4 *delivery of a notice automated violation if the registered owner is*
5 *unable to appear pursuant to this section is not an arrest. identify*
6 *the person who was the driver of the vehicle at the time of the*
7 *automated violation.*

8 (c) *The written notice of automated violation issued shall include*
9 *all of the following:*

10 (b)

11 (1) ~~A notice reference to appear shall contain the name this~~
12 ~~section and address each of the person, the license plate number~~
13 ~~of the person's vehicle, the violation charged, including a~~
14 ~~description of the offense, and the time and place when, and where,~~
15 ~~the person may appear in court or before a person authorized to~~
16 ~~receive a deposit of bail. The time specified shall be at least 10~~
17 ~~days after the notice to appear is delivered. If, after the notice to~~
18 ~~appear has been issued, the citing peace officer or qualified~~
19 ~~employee of a law enforcement agency determines that, in the~~
20 ~~interest of justice, the citation or notice should be dismissed, the~~
21 ~~citing agency may recommend, in writing, to the magistrate or the~~
22 ~~judge following sections that the case be dismissed. The~~
23 ~~recommendation shall cite the reasons for the recommendation~~
24 ~~and be filed with the court. If the magistrate or judge makes a~~
25 ~~finding that there are grounds for dismissal, the finding shall be~~
26 ~~entered on the record and the infraction dismissed. was violated:~~

27 (A) *Section 21453, failure to stop at a steady circular red signal*
28 *or a steady red arrow signal.*

29 (B) *Section 21455, failure to stop at an official traffic control*
30 *signal.*

31 (C) *Section 22101, failure to properly respond to an official*
32 *traffic control device.*

33 (D) *Section 22451, failure to stop or properly respond at a*
34 *railroad or rail transit crossing.*

35 (2) ~~A notice to appear shall also contain all~~ *The name and*
36 *address of the following information: registered owner of the*
37 *vehicle and the license plate number of the vehicle.*

38 (A)

39 (3) *The methods by which the registered owner of the vehicle*
40 *or the alleged violator may view and discuss with the issuing*

1 agency, both by telephone and in person, the evidence used to
2 substantiate the violation.

3 ~~(B)~~

4 (4) The contact information of the issuing agency.

5 (5) *The amount of the civil penalty due for that violation, the*
6 *address of the person authorized to receive a deposit of the civil*
7 *penalty, a statement in bold print that payments of the civil penalty*
8 *for the automated violation may be sent through the mail, and*
9 *instructions on obtaining information on the procedures to contest*
10 *the notice of automated violation.*

11 ~~(e)~~

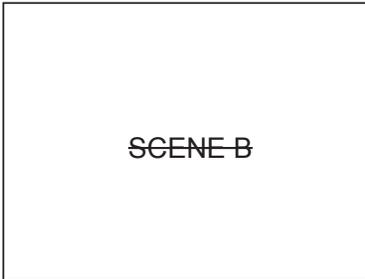
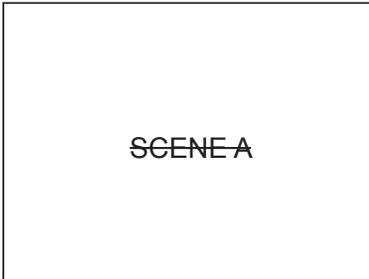
12 (d) (1) This section and Section 40520 do not preclude the
13 issuing agency or the manufacturer or supplier of the automated
14 traffic enforcement system from mailing a notice of nonliability
15 to the registered owner of the vehicle or the alleged violator prior
16 to issuing a notice ~~to appear~~ *of automated violation*. The notice
17 of nonliability shall be substantively identical to the following
18 form:

COURTESY NOTICE: THIS IS NOT A TICKET

[insert name of jurisdiction]
PHOTO ENFORCEMENT PROGRAM
Agency Address:

<Name>
<Address>
<City State, Zip>

VIOLATION #							
ADDRESS				CITY		STATE	ZIP
COLOR	YEAR	MAKE	MODEL	STYLE	LICENSE PLATE	STATE	
MONTH	DAY	YEAR	TIME				
LOCATION			VEHICLE SPEED		POSTED SPEED		
Statute			Violation Description				
Officer's Name			Badge #				



Certificate of Mailing

I, (name of mailer), of _____, do certify that I am over 18 years old and not a party to the above entitled case. On (Print Date) I placed this Notice in an envelope addressed to the registered owner or lessee as shown above, sealed it and deposited the envelope in a United States Postal Service receptacle located in (city, state). In the ordinary course of business, the envelope is sealed, affixed with proper postage and mailed. I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: _____


 Signature of Mailer

(Code of Civil Procedure 1013a (3), 2015.5)

NOTICE OF NON-LIABILITY
[Insert agency name]
INSTRUCTION PAGE

The Reason You Received This Notice:

A vehicle registered in your name was photographed failing to stop for an official traffic control signal in violation of the State of California Vehicle Code Section _____.

You are encouraged to view the video of this violation and to respond to this notice.

The failure to respond will result in you being liable for paying the automated violation penalty.

If you were the registered owner but not the driver of the vehicle at the time of the violation, you will be liable for paying the automated violation penalty unless you identify the driver.

You may make an appointment to view the evidence by calling the [Insert agency name] at (000) 000-0000. During this viewing, an officer or qualified employee will show you a high quality video and still images depicting the violation in greater detail than the printed photos in this notice.

You can also view the video online at www.0000000000.

The video is available online for 60 days from the date of violation. After 60 days an appointment must be made with [insert agency name].

DO NOT CALL THE COURT REGARDING THIS NOTICE. For additional questions contact the Photo Enforcement Program at (000) 000-0000.

Tear Here

Tear Here

Tear Here

NOTICE OF NON-LIABILITY

IF YOU WERE NOT THE DRIVER/OWNER
Violation #: <<Enter #>>

Last Issued To: <<Enter Name>>

[Insert agency name]

- CHECK ONE: The person named below was the driver of the vehicle.
 I sold the vehicle prior to the violation date to the person named below.
 I bought the vehicle after the time of the violation.
 The vehicle was stolen and outside my possession at the time of the violation.
 Police Report Number: _____
 I have never owned this vehicle or license plate.

CHECK
IF APPLICABLE The registered owner is a car rental or leasing company.

Print Actual Driver/New Owner's Name: _____ Driver's License/ID No.: _____

Address: _____ Issued in the State of: _____

City, State, ZIP Code: _____ Date of Birth: _____

DECLARATION
I CERTIFY THAT THE FOREGOING IS TRUE AND CORRECT

Signature _____ Print Name _____

Your Telephone Number () _____ - _____ Date _____

1 (2) The form specified in paragraph (1) may be translated to
2 other languages.

3 ~~(d)~~

4 (e) A manufacturer or supplier of an automated traffic
5 enforcement system or the governmental agency operating the
6 system shall not alter the notice ~~to appear~~ of automated violation
7 or any other form approved by the Judicial Council. If a form is
8 found to have been materially altered, the citation based on the
9 altered form may be dismissed.

10 (f) *The amount of the civil penalty for an automated violation*
11 *that is recorded and cited under this section is an amount equal*
12 *to one-half the total bail for a violation of Section 21453, 21455,*
13 *22101, or 22451, as the case may be, as set forth in the uniform*
14 *countywide schedule of bail. As used in this subdivision, “total*
15 *bail” means the amount established pursuant to Section 1269b of*
16 *the Penal Code in accordance with the Uniform Statewide Bail*
17 *Schedule adopted by the Judicial Council, including all*
18 *assessments, surcharges, and penalty amounts.*

19 SEC. 7. Section 40518.5 is added to the Vehicle Code, to read:

20 40518.5. (a) *For a period of 21 calendar days from the*
21 *issuance of a notice of automated violation or 14 calendar days*
22 *from the mailing of a notice of delinquent automated violation, a*
23 *person may request an initial review of the notice by the issuing*
24 *agency. The request may be made by telephone, in writing, or in*
25 *person. There shall be no charge for this review. If, following the*
26 *initial review, the issuing agency is satisfied that the violation did*
27 *not occur, that the registered owner was not responsible for the*
28 *violation, or that extenuating circumstances make dismissal of the*
29 *citation appropriate in the interest of justice, the issuing agency*
30 *shall cancel the notice of automated violation or notice of*
31 *delinquent automated violation. The issuing agency shall advise*
32 *the processing agency, if any, of the cancellation. The issuing*
33 *agency or the processing agency shall mail the results of the initial*
34 *review to the person contesting the notice.*

35 (b) *If the person is dissatisfied with the results of the initial*
36 *review, the person may request an administrative hearing of the*
37 *violation no later than 21 calendar days following the mailing of*
38 *the results of the issuing agency’s initial review. The request may*
39 *be made by telephone, in writing, or in person. The person*
40 *requesting an administrative hearing shall deposit the amount of*

1 *the civil penalty with the processing agency. The issuing agency*
2 *shall adopt a written procedure to allow a person to request an*
3 *administrative hearing without payment of the civil penalty upon*
4 *satisfactory proof of an inability to pay the amount due. Notice of*
5 *this procedure shall be provided to all persons requesting an*
6 *administrative hearing. The administrative hearing shall be held*
7 *within 90 calendar days following the receipt of a request for an*
8 *administrative hearing. The person requesting the hearing may*
9 *request one continuance, not to exceed 21 calendar days.*

10 *(c) The administrative hearing process shall include the*
11 *following:*

12 *(1) The person requesting a hearing shall have the choice of a*
13 *hearing by mail or in person. An in-person hearing shall be*
14 *conducted within the jurisdiction of the issuing agency.*

15 *(2) If the person requesting a hearing is a minor, that person*
16 *shall be permitted to appear at a hearing or admit responsibility*
17 *for the automated violation without the necessity of the appointment*
18 *of a guardian. The processing agency may proceed against the*
19 *minor in the same manner as against an adult.*

20 *(3) The administrative hearing shall be conducted in accordance*
21 *with written procedures established by the issuing agency and*
22 *approved by the governing body or chief executive officer of the*
23 *issuing agency. The hearing shall provide an independent,*
24 *objective, fair, and impartial review of contested automated*
25 *violations.*

26 *(4) (A) The issuing agency's governing body or chief executive*
27 *officer shall appoint or contract with qualified examiners or*
28 *administrative hearing providers that employ qualified examiners*
29 *to conduct the administrative hearings. Examiners shall*
30 *demonstrate those qualifications, training, and objectivity*
31 *necessary to conduct a fair and impartial review. The examiner*
32 *shall be separate and independent from the citation collection or*
33 *processing function. An examiner's continued employment,*
34 *performance evaluation, compensation, and benefits shall not,*
35 *directly or indirectly, be linked to the amount of civil penalties*
36 *collected by the examiner.*

37 *(B) Examiners shall have a minimum of 20 hours of training.*
38 *The examiner is responsible for the costs of the training. The*
39 *issuing agency may reimburse the examiner for those costs.*
40 *Training may be provided through (i) an accredited college or*

1 university, (ii) a program conducted by the Commission on Peace
2 Officer Standards and Training, (iii) American Arbitration
3 Association or a similar established organization, or (iv) through
4 any program approved by the governing board of the issuing
5 agency, including a program developed and provided by, or for,
6 the agency. Training programs may include topics relevant to the
7 administrative hearing, including, but not limited to, applicable
8 laws and regulations, enforcement procedures, due process,
9 evaluation of evidence, hearing procedures, and effective oral and
10 written communication. Upon the approval of the governing board
11 of the issuing agency, up to 12 hours of relevant experience may
12 be substituted for up to 12 hours of training. In addition, up to
13 eight hours of the training requirements described in this
14 subparagraph may be credited to an individual, at the discretion
15 of the governing board of the issuing agency, based upon training
16 programs or courses described in (i) to (iv), inclusive, that the
17 individual attended within the last five years.

18 (5) The issuing agency shall not be required to produce any
19 evidence other than the notice of automated violation or copy
20 thereof, including the photograph of the vehicle's license plate,
21 and information received from the Department of Motor Vehicles
22 identifying the registered owner of the vehicle. The documentation
23 in proper form shall be prima facie evidence of the violation.

24 (6) The examiner's decision following the administrative hearing
25 may be personally delivered to the person by the examiner or sent
26 by first-class mail.

27 (7) Following a determination by the examiner that a person
28 has committed the violation, the examiner may, consistent with
29 the written guidelines established by the issuing agency, allow
30 payment of the civil penalty in installments, or an issuing agency
31 may allow for deferred payment or allow for payments in
32 installments, if the person provides evidence satisfactory to the
33 examiner or the issuing agency, as the case may be, of an inability
34 to pay the civil penalty in full. If authorized by the governing board
35 of the issuing agency, the examiner may permit the performance
36 of community service in lieu of payment of the civil penalty.

37 SEC. 8. Section 40518.6 is added to the Vehicle Code, to read:
38 40518.6. (a) Within 20 days after the mailing of the final
39 decision described in subdivision (b) of Section 40518.5, the
40 contestant may seek review by filing an appeal to the superior

1 court, where the same shall be heard *de novo*, except that the
2 contents of the issuing agency's file in the case on appeal shall be
3 received in evidence. A copy of the notice of automated violation
4 shall be admitted into evidence as *prima facie* evidence of the facts
5 stated in the notice. A copy of the notice of appeal shall be served
6 in person or by first-class mail upon the issuing agency by the
7 contestant. For purposes of computing the 20-day period, Section
8 1013 of the Code of Civil Procedure shall be applicable. A
9 proceeding under this subdivision is a limited civil case.

10 (b) The fee for filing the notice of appeal shall be as provided
11 for in subdivision (b) of Section 70613 of the Government Code.
12 If the appellant prevails, this fee, together with any deposit of
13 automated violation penalty, shall be promptly refunded by the
14 issuing agency in accordance with the judgment of the court.

15 (c) The conduct of the hearing on appeal under this section is
16 a subordinate judicial duty that may be performed by a
17 commissioner or other subordinate judicial official at the direction
18 of the presiding judge of the court.

19 (d) If a notice of appeal of the issuing agency's decision is not
20 filed within the period set forth in subdivision (a), the decision
21 shall be deemed final.

22 (e) If the automated violation penalty has not been deposited
23 and the decision is adverse to the contestant, the issuing agency
24 may, promptly after the decision becomes final, proceed to collect
25 the penalty under Section 40520.6.

26 SEC. 9. Section 40520 of the Vehicle Code is amended to read:

27 40520. (a) A notice to appear of automated violation issued
28 pursuant to Section 40518 for an alleged violation recorded by an
29 automatic enforcement system shall contain, or be accompanied
30 by, an affidavit of nonliability and information as to what
31 constitutes nonliability, information as to the effect of executing
32 the affidavit, and instructions for returning the affidavit to the
33 issuing agency.

34 (b) (1) If a notice to appear of automated violation is sent to a
35 car rental or leasing company, as the registered owner of the
36 vehicle, the company may return the notice of nonliability pursuant
37 to paragraph (2), if the *automated* violation occurred when the
38 vehicle was either leased or rented and operated by a person other
39 than an employee of the rental or leasing company.

1 (2) If the affidavit of nonliability is returned to the issuing
 2 agency by the registered owner within 30 days of the mailing of
 3 the notice ~~to appear of automated violation~~ together with the proof
 4 of a written rental agreement or lease between a bona fide renting
 5 or leasing company and its customer and that agreement identifies
 6 the renter or lessee and provides the driver's license number, name,
 7 and address of the renter or lessee, the agency shall cancel the
 8 notice ~~for of automated violation to the registered owner to appear~~
 9 and shall, instead, issue a notice ~~to appear to~~ *of automated violation*
 10 to the renter or lessee identified in the affidavit of nonliability.

11 (c) Nothing in this section precludes an issuing agency from
 12 establishing a procedure ~~whereby~~ *by which* registered owners,
 13 other than bona fide renting and leasing companies, may execute
 14 an affidavit of nonliability if the registered owner identifies the
 15 person who was the driver of the vehicle at the time of the alleged
 16 violation and ~~whereby~~ the issuing agency issues a notice ~~to appear~~
 17 ~~to~~ *of automated violation to that person.*

18 *SEC. 10. Section 40520.5 is added to the Vehicle Code, to*
 19 *read:*

20 *40520.5. (a) If the payment of the automated violation penalty*
 21 *is not received by the person authorized to receive a deposit of the*
 22 *penalty by the time and date fixed for appearance on the notice of*
 23 *automated violation under Section 40518, the issuing agency may*
 24 *assess a delinquent fee and shall serve or mail to the registered*
 25 *owner a notice of delinquent automated violation.*

26 *(b) Delivery of a notice of delinquent automated violation under*
 27 *this section may be made by personal service or by first-class mail*
 28 *addressed to the registered owner.*

29 *SEC. 11. Section 40520.6 is added to the Vehicle Code, to*
 30 *read:*

31 *40520.6. The notice of delinquent automated violation shall*
 32 *contain the information specified in Section 40518 and shall*
 33 *additionally contain a notice to the registered owner that unless*
 34 *the registered owner pays the automated violation penalty or*
 35 *contests the notice within 15 days after mailing of the notice of*
 36 *delinquent automated violation or completes and files an affidavit*
 37 *of nonliability which complies with Section 40520, the renewal of*
 38 *the vehicle registration shall be contingent upon compliance with*
 39 *the notice of delinquent automated violation. If the registered*
 40 *owner, by appearance or by mail, makes payment to the issuing*

1 agency within 15 days of the mailing of the notice of delinquent
2 automated violation, the penalty shall consist of the amount of the
3 original penalty and the delinquent administrative fee.

4 SEC. 12. Section 40520.7 is added to the Vehicle Code, to
5 read:

6 40520.7. The issuing agency may file an itemization of unpaid
7 automated violation penalties and administrative fees with the
8 department for collection with the registration of the vehicle
9 pursuant to Section 4780.

10 SECTION 1. Section 21455.5 of the Vehicle Code is amended
11 to read:

12 ~~21455.5.—(a) The limit line, the intersection, or a place~~
13 ~~designated in Section 21455, where a driver is required to stop,~~
14 ~~may be equipped with an automated traffic enforcement system if~~
15 ~~the governmental agency utilizing the system meets all of the~~
16 ~~following requirements:~~

17 ~~(1) Identifies the system by signs posted within 200 feet of an~~
18 ~~intersection where a system is operating that clearly indicate the~~
19 ~~system's presence and are visible to traffic approaching from all~~
20 ~~directions in which the automated traffic enforcement system is~~
21 ~~being utilized to issue citations. A governmental agency utilizing~~
22 ~~such a system does not need to post signs visible to traffic~~
23 ~~approaching the intersection from directions not subject to the~~
24 ~~automated traffic enforcement system. Automated traffic~~
25 ~~enforcement systems installed as of January 1, 2013, shall be~~
26 ~~identified no later than January 1, 2014.~~

27 ~~(2) Locates the system at an intersection and ensures that the~~
28 ~~system meets the criteria specified in Section 21455.7.~~

29 ~~(b) Prior to issuing citations under this section, a local authority~~
30 ~~utilizing an automated traffic enforcement system shall commence~~
31 ~~a program to issue only warning notices for 30 days. The local~~
32 ~~authority also shall make a public announcement of the automated~~
33 ~~traffic enforcement system at least 30 days prior to the~~
34 ~~commencement of the enforcement program.~~

35 ~~(c) Only a governmental agency, in cooperation with a law~~
36 ~~enforcement agency, may operate an automated traffic enforcement~~
37 ~~system. A governmental agency that operates an automated traffic~~
38 ~~enforcement system shall do all of the following:~~

39 ~~(1) Develop uniform guidelines for screening and issuing~~
40 ~~violations and for the processing and storage of confidential~~

1 information, and establish procedures to ensure compliance with
2 those guidelines. For systems installed as of January 1, 2013, a
3 governmental agency that operates an automated traffic
4 enforcement system shall establish those guidelines by January 1,
5 2014.

6 ~~(2) Perform administrative functions and day-to-day functions,~~
7 ~~including, but not limited to, all of the following:~~

8 ~~(A) Establishing guidelines for the selection of a location. Prior~~
9 ~~to installing an automated traffic enforcement system after January~~
10 ~~1, 2013, the governmental agency shall make and adopt a finding~~
11 ~~of fact establishing that the system is needed at a specific location~~
12 ~~for reasons related to safety.~~

13 ~~(B) Ensuring that the equipment is regularly inspected.~~

14 ~~(C) Certifying that the equipment is properly installed and~~
15 ~~calibrated, and is operating properly.~~

16 ~~(D) Regularly inspecting and maintaining warning signs placed~~
17 ~~under paragraph (1) of subdivision (a).~~

18 ~~(E) Overseeing the establishment or change of signal phases~~
19 ~~and the timing thereof.~~

20 ~~(F) Maintaining controls necessary to ensure that only those~~
21 ~~citations that have been reviewed and approved by law enforcement~~
22 ~~are delivered to violators.~~

23 ~~(d) The activities listed in subdivision (c) that relate to the~~
24 ~~operation of the system may be contracted out by the governmental~~
25 ~~agency, if it maintains overall control and supervision of the~~
26 ~~system. However, the activities listed in paragraph (1), and~~
27 ~~subparagraphs (A), (D), (E), and (F) of paragraph (2), of~~
28 ~~subdivision (c) shall not be contracted out to the manufacturer or~~
29 ~~supplier of the automated traffic enforcement system.~~

30 ~~(e) The printed representation of computer-generated~~
31 ~~information, video, or photographic images stored by an automated~~
32 ~~traffic enforcement system does not constitute an out-of-court~~
33 ~~hearsay statement by a declarant under Division 10 (commencing~~
34 ~~with Section 1200) of the Evidence Code.~~

35 ~~(f) (1) Notwithstanding Section 6253 of the Government Code,~~
36 ~~or any other law, photographic records made by an automated~~
37 ~~traffic enforcement system are confidential, and shall be made~~
38 ~~available only to governmental agencies and law enforcement~~
39 ~~agencies and only for the purposes of this article.~~

1 ~~(2) Confidential information obtained from the Department of~~
2 ~~Motor Vehicles for the administration or enforcement of this article~~
3 ~~shall be held confidential, and shall not be used for any other~~
4 ~~purpose.~~

5 ~~(3) Except for court records described in Section 68152 of the~~
6 ~~Government Code, the confidential records and information~~
7 ~~described in paragraphs (1) and (2) may be retained for up to six~~
8 ~~months from the date the information was first obtained, or until~~
9 ~~final disposition of the citation, whichever date is later, after which~~
10 ~~time the information shall be destroyed in a manner that will~~
11 ~~preserve the confidentiality of any person included in the record~~
12 ~~or information.~~

13 ~~(g) Notwithstanding subdivision (f), the registered owner or any~~
14 ~~individual identified by the registered owner as the driver of the~~
15 ~~vehicle at the time of the alleged violation shall be permitted to~~
16 ~~review the photographic evidence of the alleged violation.~~

17 ~~(h) (1) A contract between a governmental agency and a~~
18 ~~manufacturer or supplier of automated traffic enforcement~~
19 ~~equipment shall not include provision for the payment or~~
20 ~~compensation to the manufacturer or supplier based on the number~~
21 ~~of citations generated, or as a percentage of the revenue generated,~~
22 ~~as a result of the use of the equipment authorized under this section.~~

23 ~~(2) Paragraph (1) does not apply to a contract that was entered~~
24 ~~into by a governmental agency and a manufacturer or supplier of~~
25 ~~automated traffic enforcement equipment before January 1, 2004,~~
26 ~~unless that contract is renewed, extended, or amended on or after~~
27 ~~January 1, 2004.~~

28 ~~(3) A governmental agency that proposes to install or operate~~
29 ~~an automated traffic enforcement system shall not consider revenue~~
30 ~~generation, beyond recovering its actual costs of operating the~~
31 ~~system, as a factor when considering whether or not to install or~~
32 ~~operate a system within its jurisdiction.~~

33 ~~(i) A manufacturer or supplier that operates an automated traffic~~
34 ~~enforcement system pursuant to this section shall, in cooperation~~
35 ~~with the governmental agency, submit an annual report to the~~
36 ~~Judicial Council that includes, but is not limited to, all of the~~
37 ~~following information if this information is in the possession of,~~
38 ~~or readily available to, the manufacturer or supplier:~~

39 ~~(1) The number of alleged violations captured by the systems~~
40 ~~the manufacturer or supplier operates.~~

- 1 ~~(2) The number of citations issued by a law enforcement agency~~
2 ~~based on information collected from the automated traffic~~
3 ~~enforcement system.~~
- 4 ~~(3) For citations identified in paragraph (2), the number of~~
5 ~~violations that involved traveling straight through the intersection,~~
6 ~~turning right, and turning left.~~
- 7 ~~(4) The number and percentage of citations that are dismissed~~
8 ~~by the court.~~
- 9 ~~(5) The number of traffic collisions at each intersection that~~
10 ~~occurred prior to, and after the installation of, the automated traffic~~
11 ~~enforcement system.~~
- 12 ~~(j) If a governmental agency utilizing an automated traffic~~
13 ~~enforcement system has posted signs on or before January 1, 2013,~~
14 ~~that met the requirements of paragraph (1) of subdivision (a) of~~
15 ~~this section, as it read on January 1, 2012, the governmental agency~~
16 ~~shall not remove those signs until signs are posted that meet the~~
17 ~~requirements specified in this section, as it reads on January 1,~~
18 ~~2013.~~