

AMENDED IN ASSEMBLY SEPTEMBER 3, 2015

AMENDED IN ASSEMBLY JULY 1, 2015

AMENDED IN ASSEMBLY JUNE 22, 2015

AMENDED IN SENATE APRIL 16, 2015

**SENATE BILL**

**No. 413**

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**Introduced by Senator Wieckowski**

February 25, 2015

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An act to amend Section 640 of the Penal Code, and to amend Section 99580 of the Public Utilities Code, relating to public transit.

LEGISLATIVE COUNSEL'S DIGEST

SB 413, as amended, Wieckowski. Public transit: prohibited conduct.

Existing law makes it a crime, punishable as an infraction, for a person to commit certain acts on or in a facility or vehicle of a public transportation system, including disturbing another person by loud or unreasonable noise on the facilities, vehicles, or property of the public transportation system, in specified circumstances.

This bill would revise the unreasonable noise provision so that it would apply to a person failing to comply with the warning of a transit official related to disturbing another person by loud and unreasonable noise, and also to a person playing unreasonably loud sound equipment on or in a public transportation system facility or vehicle. The bill would also make it an infraction for a person on or in a facility or vehicle of a public transportation system to fail to yield seating reserved for an elderly or disabled person if the public transportation agency enacts an ordinance to that effect, after a public hearing.

The bill would also expand the definition of a facility or vehicle of a public transportation system for these purposes to include a facility or vehicle of a rail authority, whether owned or leased, as specified.

By expanding the definitions of existing crimes and creating new crimes, the bill would impose a state-mandated local program.

Existing law also authorizes a public transportation agency to adopt an ordinance to impose and enforce civil administrative penalties for certain passenger misconduct, other than by minors, on or in a transit facility or vehicle in lieu of the criminal penalties otherwise applicable, with specified administrative procedures for the imposition and enforcement of the administrative penalties, including an initial review and opportunity for a subsequent administrative hearing. This misconduct includes playing sound equipment on or in a system facility or vehicle. Existing law requires the ordinance to include the statutory provisions governing the administrative penalties.

This bill would apply these administrative penalties to a person failing to comply with the warning of a transit official related to disturbing another person by loud and unreasonable noise, to a person playing unreasonably loud sound equipment on or in a system facility or vehicle, and to a person failing to yield seating reserved for an elderly or disabled person. The bill would authorize the administrative penalties to be applied to minors and would delete the requirement for the ordinance to include the statutory provisions.

*This bill would incorporate additional changes to Section 99580 of the Public Utilities Code, proposed by AB 869 and by AB 6 and SB 5 of the Second Extraordinary Session, that would become operative only if this bill and one or more of those bills are enacted and become effective on or before January 1, 2016, and this bill is enacted last.*

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. Section 640 of the Penal Code is amended to  
2 read:

1 640. (a) (1) Any of the acts described in paragraphs (1) to (6),  
2 inclusive, of subdivision (b) is an infraction punishable by a fine  
3 not to exceed two hundred fifty dollars (\$250) and by community  
4 service for a total time not to exceed 48 hours over a period not to  
5 exceed 30 days, during a time other than during the violator's hours  
6 of school attendance or employment. Any of the acts described in  
7 paragraphs (1) to (3), inclusive, of subdivision (c), upon a first or  
8 second violation, is an infraction punishable by a fine not to exceed  
9 two hundred fifty dollars (\$250) and by community service for a  
10 total time not to exceed 48 hours over a period not to exceed 30  
11 days, during a time other than during the violator's hours of school  
12 attendance or employment. A third or subsequent violation of any  
13 of the acts described in paragraphs (1) to (3), inclusive, of  
14 subdivision (c) is a misdemeanor punishable by a fine of not more  
15 than four hundred dollars (\$400) or by imprisonment in a county  
16 jail for a period of not more than 90 days, or by both that fine and  
17 imprisonment. Any of the acts described in subdivision (d) shall  
18 be punishable by a fine of not more than four hundred dollars  
19 (\$400), by imprisonment in a county jail for a period of not more  
20 than 90 days, or by both that fine and imprisonment.

21 (2) This section shall apply only to acts committed on or in a  
22 facility or vehicle of a public transportation system.

23 (b) (1) Eating or drinking in or on a system facility or vehicle  
24 in areas where those activities are prohibited by that system.

25 (2) Playing unreasonably loud sound equipment on or in a  
26 system facility or vehicle, or failing to comply with the warning  
27 of a transit official related to disturbing another person by loud or  
28 unreasonable noise.

29 (3) Smoking in or on a system facility or vehicle in areas where  
30 those activities are prohibited by that system.

31 (4) Expecting upon a system facility or vehicle.

32 (5) Skateboarding, roller skating, bicycle riding, roller blading,  
33 or operating a motorized scooter or similar device, as defined in  
34 Section 407.5 of the Vehicle Code in a system facility, vehicle, or  
35 parking structure. This paragraph does not apply to an activity that  
36 is necessary for utilization of the transit facility by a bicyclist,  
37 including, but not limited to, an activity that is necessary for  
38 parking a bicycle or transporting a bicycle aboard a transit vehicle,  
39 if that activity is conducted with the permission of the transit

1 agency in a manner that does not interfere with the safety of the  
2 bicyclist or other patrons of the transit facility.

3 (6) Selling or peddling any goods, merchandise, property, or  
4 services of any kind whatsoever on the facilities, vehicles, or  
5 property of the public transportation system, if the public  
6 transportation system has prohibited those acts and neither the  
7 public transportation system nor its duly authorized representatives  
8 have granted written consent to engage in those acts.

9 (c) (1) Evasion of the payment of a fare of the system. For  
10 purposes of this section, fare evasion includes entering an enclosed  
11 area of a public transit facility beyond posted signs prohibiting  
12 entrance without obtaining valid fare, in addition to entering a  
13 transit vehicle without valid fare.

14 (2) Misuse of a transfer, pass, ticket, or token with the intent to  
15 evade the payment of a fare.

16 (3) (A) Unauthorized use of a discount ticket or failure to  
17 present, upon request from a transit system representative,  
18 acceptable proof of eligibility to use a discount ticket, in  
19 accordance with Section 99155 of the Public Utilities Code and  
20 posted system identification policies when entering or exiting a  
21 transit station or vehicle. Acceptable proof of eligibility must be  
22 clearly defined in the posting.

23 (B) ~~In the event that~~ *If* an eligible discount ticket user is not in  
24 possession of acceptable proof at the time of request, any citation  
25 issued shall be held for a period of 72 hours to allow the user to  
26 produce acceptable proof. If the proof is provided, the citation  
27 shall be voided. If the proof is not produced within that time period,  
28 the citation shall be processed.

29 (d) (1) Willfully disturbing others on or in a system facility or  
30 vehicle by engaging in boisterous or unruly behavior.

31 (2) Carrying an explosive, acid, or flammable liquid in a public  
32 transit facility or vehicle.

33 (3) Urinating or defecating in a system facility or vehicle, except  
34 in a lavatory. However, this paragraph shall not apply to a person  
35 who cannot comply with this paragraph as a result of a disability,  
36 age, or a medical condition.

37 (4) Willfully blocking the free movement of another person in  
38 a system facility or vehicle. This paragraph shall not be interpreted  
39 to affect any lawful activities permitted or First Amendment rights  
40 protected under the laws of this state or applicable federal law,

1 including, but not limited to, laws related to collective bargaining,  
2 labor relations, or labor disputes.

3 (5) Willfully tampering with, removing, displacing, injuring,  
4 or destroying any part of any facility or vehicle of a public  
5 transportation system.

6 (e) Notwithstanding subdivision (a), a public transportation  
7 agency, as defined in paragraph (4) of subdivision (c) of Section  
8 99580 of the Public Utilities Code, may do either of the following:

9 (1) Enact and enforce an ordinance providing that a person who  
10 is the subject of a citation for any of the acts described in  
11 subdivision (b) of Section 99580 of the Public Utilities Code on  
12 or in a facility or vehicle described in subdivision (a) for which  
13 the public transportation agency has jurisdiction shall, under the  
14 circumstances set forth by the ordinance, be afforded an  
15 opportunity to complete an administrative process that imposes  
16 only an administrative penalty enforced in a civil proceeding. The  
17 ordinance for imposing and enforcing the administrative penalty  
18 shall be governed by Chapter 8 (commencing with Section 99580)  
19 of Part 11 of Division 10 of the Public Utilities Code.

20 (2) Enforce as an infraction pursuant to subdivision (b) the act  
21 of failing to yield seating reserved for an elderly or disabled person  
22 in a facility or vehicle for which the public transportation agency  
23 has jurisdiction, provided that the governing board of the public  
24 transportation agency enacts an ordinance to that effect after a  
25 public hearing on the issue.

26 (f) For purposes of this section, a “facility or vehicle of a public  
27 transportation system” means any of the following:

28 (1) A facility or vehicle of a public transportation system as  
29 defined by Section 99211 of the Public Utilities Code.

30 (2) A facility of, or vehicle operated by any entity subsidized  
31 by, the Department of Transportation.

32 (3) A facility or vehicle of a rail authority, whether owned or  
33 leased, including, but not limited to, any part of a railroad, or track  
34 of a railroad, or any branch or branchway, switch, turnout, bridge,  
35 viaduct, culvert, embankment, station house, or other structure or  
36 fixture, or any part thereof, attached or connected to a railroad.

37 (4) A leased or rented facility or vehicle for which any of the  
38 entities described in paragraph (1), (2), or (3) incurs costs of  
39 cleanup, repair, or replacement as a result of any of those acts.

1 SEC. 2. Section 99580 of the Public Utilities Code is amended  
2 to read:

3 99580. (a) Pursuant to subdivision (e) of Section 640 of the  
4 Penal Code, a public transportation agency may enact and enforce  
5 an ordinance to impose and enforce an administrative penalty for  
6 any of the acts described in subdivision (b).

7 (b) (1) Evasion of the payment of a fare of the system.

8 (2) Misuse of a transfer, pass, ticket, or token with the intent to  
9 evade the payment of a fare.

10 (3) Playing unreasonably loud sound equipment on or in a  
11 system facility or vehicle, or failing to comply with the warning  
12 of a transit official related to disturbing another person by loud or  
13 unreasonable noise.

14 (4) Smoking, eating, or drinking in or on a system facility or  
15 vehicle in those areas where those activities are prohibited by that  
16 system.

17 (5) Expectorating upon a system facility or vehicle.

18 (6) Willfully disturbing others on or in a system facility or  
19 vehicle by engaging in boisterous or unruly behavior.

20 (7) Carrying an explosive or acid, flammable liquid, or toxic or  
21 hazardous material in a system facility or vehicle.

22 (8) Urinating or defecating in a system facility or vehicle, except  
23 in a lavatory. However, this paragraph shall not apply to a person  
24 who cannot comply with this paragraph as a result of a disability,  
25 age, or a medical condition.

26 (9) (A) Willfully blocking the free movement of another person  
27 in a system facility or vehicle.

28 (B) This paragraph shall not be interpreted to affect any lawful  
29 activities permitted or First Amendment rights protected under the  
30 laws of this state or applicable federal law, including, but not  
31 limited to, laws related to collective bargaining, labor relations,  
32 or labor disputes.

33 (10) Skateboarding, roller skating, bicycle riding, or roller  
34 blading in a system facility, including a parking structure, or in a  
35 system vehicle. This paragraph does not apply to an activity that  
36 is necessary for utilization of a system facility by a bicyclist,  
37 including, but not limited to, an activity that is necessary for  
38 parking a bicycle or transporting a bicycle aboard a system vehicle,  
39 if that activity is conducted with the permission of the agency of

1 the system in a manner that does not interfere with the safety of  
2 the bicyclist or other patrons of the system facility.

3 (11) (A) Unauthorized use of a discount ticket or failure to  
4 present, upon request from a system representative, acceptable  
5 proof of eligibility to use a discount ticket, in accordance with  
6 Section 99155, and posted system identification policies when  
7 entering or exiting a system station or vehicle. Acceptable proof  
8 of eligibility must be clearly defined in the posting.

9 (B) If an eligible discount ticket user is not in possession of  
10 acceptable proof at the time of request, an issued notice of fare  
11 evasion or passenger conduct violation shall be held for a period  
12 of 72 hours to allow the user to produce acceptable proof. If the  
13 proof is provided, that notice shall be voided. If the proof is not  
14 produced within that time period, that notice shall be processed.

15 (12) Selling or peddling any goods, merchandise, property, or  
16 services of any kind whatsoever on the facilities, vehicles, or  
17 property of the public transportation system without the express  
18 written consent of the public transportation system or its duly  
19 authorized representatives.

20 (13) Failing to yield seating reserved for an elderly or disabled  
21 person.

22 (c) (1) The public transportation agency may contract with a  
23 private vendor or governmental agency for the processing of notices  
24 of fare evasion or passenger conduct violation, and notices of  
25 delinquent fare evasion or passenger conduct violation pursuant  
26 to Section 99581.

27 (2) For the purpose of this chapter, “processing agency” means  
28 either of the following:

29 (A) The agency issuing the notice of fare evasion or passenger  
30 conduct violation and the notice of delinquent fare evasion or  
31 passenger conduct violation.

32 (B) The party responsible for processing the notice of fare  
33 evasion or passenger conduct violation and the notice of delinquent  
34 violation, if a contract is entered into pursuant to paragraph (1).

35 (3) For the purpose of this chapter, “fare evasion or passenger  
36 conduct violation penalty” includes, but is not limited to, a late  
37 payment penalty, administrative fee, fine, assessment, and costs  
38 of collection as provided for in the ordinance.

39 (4) For the purpose of this chapter, “public transportation  
40 agency” shall mean a public agency that provides public

1 transportation as defined in paragraph (1) of subdivision (f) of  
2 Section 1 of Article XIX A of the California Constitution.

3 (5) All fare evasion and passenger conduct violation penalties  
4 collected pursuant to this chapter shall be deposited in the general  
5 fund of the county in which the citation is administered.

6 (d) (1) If a fare evasion or passenger conduct violation is  
7 observed by a person authorized to enforce the ordinance, a notice  
8 of fare evasion or passenger conduct violation shall be issued. The  
9 notice shall set forth the violation, including reference to the  
10 ordinance setting forth the administrative penalty, the date of the  
11 violation, the approximate time, and the location where the  
12 violation occurred. The notice shall include a printed statement  
13 indicating the date payment is required to be made, and the  
14 procedure for contesting the notice. The notice shall be served by  
15 personal service upon the violator. The notice, or copy of the  
16 notice, shall be considered a record kept in the ordinary course of  
17 business of the issuing agency and the processing agency, and  
18 shall be prima facie evidence of the facts contained in the notice  
19 establishing a rebuttable presumption affecting the burden of  
20 producing evidence.

21 (2) When a notice of fare evasion or passenger conduct violation  
22 has been served, the person issuing the notice shall file the notice  
23 with the processing agency.

24 (3) If, after a notice of fare evasion or passenger conduct  
25 violation is issued pursuant to this section, the issuing officer  
26 determines that there is incorrect data on the notice, including, but  
27 not limited to, the date or time, the issuing officer may indicate in  
28 writing on a form attached to the original notice the necessary  
29 correction to allow for the timely entry of the corrected notice on  
30 the processing agency's data system. A copy of the correction shall  
31 be mailed to the address provided by the person cited at the time  
32 the original notice of fare evasion or passenger conduct violation  
33 was served.

34 (4) If a person contests a notice of fare evasion or passenger  
35 conduct violation, the issuing agency shall proceed in accordance  
36 with Section 99581.

37 (e) In setting the amounts of administrative penalties for the  
38 violations listed in subdivision (b), the public transportation agency  
39 shall not establish penalty amounts that exceed the maximum fine  
40 amount set forth in Section 640 of the Penal Code.

1 (f) A person who receives a notice of fare evasion or passenger  
2 conduct violation pursuant to this section shall not be subject to  
3 citation for a violation of Section 640 of the Penal Code.

4 (g) If an entity enacts an ordinance pursuant to this section it  
5 shall, both two years and five years after enactment of the  
6 ordinance, report all of the following information to the Senate  
7 Committee on Transportation and Housing and the Assembly  
8 Committee on Transportation:

9 (1) A description of the ordinance, including the circumstances  
10 under which an alleged violator is afforded the opportunity to  
11 complete the administrative process.

12 (2) The amount of the administrative penalties.

13 (3) The number and types of citations administered pursuant to  
14 the ordinance.

15 (4) To the extent available, a comparison of the number and  
16 types of citations administered pursuant to the ordinance with the  
17 number and types of citations issued for similar offenses and  
18 administered through the courts both in the two years prior to the  
19 ordinance and, if any, since enactment of the ordinance.

20 (5) A discussion of the effect of the ordinance on passenger  
21 behavior.

22 (6) A discussion of the effect of the ordinance on revenues to  
23 the entity described in subdivision (a) and, in consultation with  
24 the superior courts, the cost savings to the county courts. The  
25 superior courts are encouraged to collaborate on and provide data  
26 for this report.

27 *SEC. 2.3. Section 99580 of the Public Utilities Code is amended*  
28 *to read:*

29 99580. (a) Pursuant to subdivision (e) of Section 640 of the  
30 Penal Code, a public transportation agency may enact and enforce  
31 an ordinance to impose and enforce an administrative penalty for  
32 any of the acts described in subdivision (b). ~~The ordinance shall~~  
33 ~~include the provisions of this chapter and shall not apply to minors.~~

34 (b) (1) Evasion of the payment of a fare of the system.

35 (2) Misuse of a transfer, pass, ticket, or token with the intent to  
36 evade the payment of a fare.

37 (3) Playing *unreasonably loud* sound equipment on or in a  
38 system facility or ~~vehicle~~; *vehicle*, or *failing to comply with the*  
39 *warning of a transit official related to disturbing another person*  
40 *by loud or unreasonable noise.*

1 (4) Smoking, eating, or drinking in or on a system facility or  
2 vehicle in those areas where those activities are prohibited by that  
3 system.

4 (5) Expectorating upon a system facility or vehicle.

5 (6) Willfully disturbing others on or in a system facility or  
6 vehicle by engaging in boisterous or unruly behavior.

7 (7) Carrying an explosive or acid, flammable liquid, or toxic or  
8 hazardous material in a system facility or vehicle.

9 (8) Urinating or defecating in a system facility or vehicle, except  
10 in a lavatory. However, this paragraph shall not apply to a person  
11 who cannot comply with this paragraph as a result of a disability,  
12 age, or a medical condition.

13 (9) (A) Willfully blocking the free movement of another person  
14 in a system facility or vehicle.

15 (B) This paragraph shall not be interpreted to affect any lawful  
16 activities permitted or ~~first amendment~~ *First Amendment* rights  
17 protected under the laws of this state or applicable federal law,  
18 including, but not limited to, laws related to collective bargaining,  
19 labor relations, or labor disputes.

20 (10) Skateboarding, roller skating, bicycle riding, or roller  
21 blading in a system facility, including a parking structure, or in a  
22 system vehicle. This paragraph does not apply to an activity that  
23 is necessary for utilization of a system facility by a bicyclist,  
24 including, but not limited to, an activity that is necessary for  
25 parking a bicycle or transporting a bicycle aboard a system vehicle,  
26 if that activity is conducted with the permission of the agency of  
27 the system in a manner that does not interfere with the safety of  
28 the bicyclist or other patrons of the system facility.

29 (11) (A) Unauthorized use of a discount ticket or failure to  
30 present, upon request from a system representative, acceptable  
31 proof of eligibility to use a discount ticket, in accordance with  
32 Section 99155, and posted system identification policies when  
33 entering or exiting a system station or vehicle. Acceptable proof  
34 of eligibility must be clearly defined in the posting.

35 (B) ~~In the event that~~ *If* an eligible discount ticket user is not in  
36 possession of acceptable proof at the time of request, an issued  
37 notice of fare evasion or passenger conduct violation shall be held  
38 for a period of 72 hours to allow the user to produce acceptable  
39 proof. If the proof is provided, that notice shall be voided. If the

1 proof is not produced within that time period, that notice shall be  
2 processed.

3 (12) ~~Sale~~ *Selling* or peddling ~~of~~ any goods, merchandise,  
4 property, or services of any kind whatsoever on the facilities,  
5 vehicles, or property of the public transportation system without  
6 the express written consent of the public transportation system or  
7 its duly authorized representatives.

8 (13) *Failing to yield seating reserved for an elderly or disabled*  
9 *person.*

10 (c) (1) The public transportation agency may contract with a  
11 private vendor or governmental agency for the processing of notices  
12 of fare evasion or passenger conduct violation, and notices of  
13 delinquent fare evasion or passenger conduct violation pursuant  
14 to Section 99581.

15 (2) For the purpose of this chapter, “processing agency” means  
16 either of the following:

17 (A) The agency issuing the notice of fare evasion or passenger  
18 conduct violation and the notice of delinquent fare evasion or  
19 passenger conduct violation.

20 (B) The party responsible for processing the notice of fare  
21 evasion or passenger conduct violation and the notice of delinquent  
22 violation, if a contract is entered into pursuant to paragraph (1).

23 (3) For the purpose of this chapter, “fare evasion or passenger  
24 conduct violation penalty” includes, but is not limited to, a late  
25 payment penalty, administrative fee, fine, assessment, and costs  
26 of collection as provided for in the ordinance.

27 (4) For the purpose of this chapter, “public transportation  
28 agency” shall mean a public agency that provides public  
29 transportation as defined in paragraph (1) of subdivision (f) of  
30 Section 1 of Article XIX A of the California Constitution.

31 (5) All fare evasion and passenger conduct violation penalties  
32 collected pursuant to this chapter shall be deposited in the general  
33 fund of the county in which the citation is administered.

34 (d) (1) *If a fare evasion or passenger conduct violation is*  
35 *observed by a person authorized to enforce the ordinance, a notice*  
36 *of fare evasion or passenger conduct violation shall be issued. The*  
37 *notice shall set forth all of the following:*

38 (A) *The violation, including reference to the ordinance setting*  
39 *forth the administrative penalty.*

1 (B) *The date and approximate time of the violation, and the*  
2 *location where the violation occurred.*

3 (C) *A printed statement indicating the date payment is required*  
4 *to be made.*

5 (D) *The procedure for contesting the notice.*

6 (E) *A printed statement that the person may be charged with*  
7 *an infraction or misdemeanor pursuant to Section 640 of the Penal*  
8 *Code if the administrative penalty is not paid when due or*  
9 *dismissed pursuant to the procedure for contesting the notice.*

10 ~~(d) (1) If a fare evasion or passenger conduct violation is~~  
11 ~~observed by a person authorized to enforce the ordinance, a notice~~  
12 ~~of fare evasion or passenger conduct violation shall be issued. The~~  
13 ~~notice shall set forth the violation, including reference to the~~  
14 ~~ordinance setting forth the administrative penalty, the date of the~~  
15 ~~violation, the approximate time, and the location where the~~  
16 ~~violation occurred. The notice shall include a printed statement~~  
17 ~~indicating the date payment is required to be made, and the~~  
18 ~~procedure for contesting the notice. The~~

19 (2) *The notice shall be served by personal service upon the*  
20 *violator. The notice, or copy of the notice, shall be considered a*  
21 *record kept in the ordinary course of business of the issuing agency*  
22 *and the processing agency, and shall be prima facie evidence of*  
23 *the facts contained in the notice establishing a rebuttable*  
24 *presumption affecting the burden of producing evidence.*

25 ~~(2)~~

26 (3) *When a notice of fare evasion or passenger conduct violation*  
27 *has been served, the person issuing the notice shall file the notice*  
28 *with the processing agency.*

29 ~~(3)~~

30 (4) *If, after a notice of fare evasion or passenger conduct*  
31 *violation is issued pursuant to this section, the issuing officer*  
32 *determines that there is incorrect data on the notice, including, but*  
33 *not limited to, the date or time, the issuing officer may indicate in*  
34 *writing on a form attached to the original notice the necessary*  
35 *correction to allow for the timely entry of the corrected notice on*  
36 *the processing agency’s data system. A copy of the correction shall*  
37 *be mailed to the address provided by the person cited at the time*  
38 *the original notice of fare evasion or passenger conduct violation*  
39 *was served.*

40 ~~(4)~~

1 (5) If a person contests a notice of fare evasion or passenger  
2 conduct violation, the issuing agency shall proceed in accordance  
3 with Section 99581.

4 (e) In setting the amounts of administrative penalties for the  
5 violations listed in subdivision (b), the public transportation agency  
6 shall not establish penalty amounts that exceed the maximum fine  
7 amount set forth in Section 640 of the Penal Code.

8 (f) (1) A person who receives a notice of fare evasion or  
9 passenger conduct violation pursuant to this section shall not be  
10 subject to citation for a violation of Section 640 of the Penal Code.  
11 *Code, if the person pays the administrative penalty when due or*  
12 *successfully completes the civil administrative process pursuant*  
13 *to this chapter.*

14 (2) *A person who fails to pay the administrative penalty when*  
15 *due or successfully complete the civil administrative process*  
16 *pursuant to this chapter may be charged with an infraction or*  
17 *misdemeanor pursuant to Section 640 of the Penal Code.*

18 (3) *If a person is charged with an infraction or misdemeanor*  
19 *pursuant to Section 640 of the Penal Code, after failing to pay the*  
20 *administrative penalty or successfully complete the civil*  
21 *administrative process pursuant to this chapter, the processing*  
22 *agency shall dismiss the original notice of fare evasion or*  
23 *passenger conduct violation and make no further attempts to collect*  
24 *the administrative penalty.*

25 (4) *A person who is charged with an infraction or misdemeanor*  
26 *pursuant to Section 640 of the Penal Code, after failing to pay the*  
27 *administrative penalty or successfully complete the civil*  
28 *administrative process pursuant to this chapter, shall be personally*  
29 *served by the processing agency with a new notice of fare evasion*  
30 *or passenger conduct violation that sets forth the violation under*  
31 *Section 640 of the Penal Code.*

32 (g) If an entity enacts an ordinance pursuant to this section it  
33 shall, both two years and five years after enactment of the  
34 ordinance, report all of the following information to the Senate  
35 Committee on Transportation and Housing and the Assembly  
36 Committee on Transportation:

37 (1) A description of the ordinance, including the circumstances  
38 under which an alleged violator is afforded the opportunity to  
39 complete the administrative process.

40 (2) The amount of the administrative penalties.

1 (3) The number and types of citations administered pursuant to  
2 the ordinance.

3 (4) To the extent available, a comparison of the number and  
4 types of citations administered pursuant to the ordinance with the  
5 number and types of citations issued for similar offenses and  
6 administered through the courts both in the two years prior to the  
7 ordinance and, if any, since enactment of the ordinance.

8 (5) A discussion of the effect of the ordinance on passenger  
9 behavior.

10 (6) A discussion of the effect of the ordinance on revenues to  
11 the entity described in subdivision (a) and, in consultation with  
12 the superior courts, the cost savings to the county courts. The  
13 superior courts are encouraged to collaborate on and provide data  
14 for this report.

15 *SEC. 2.5. Section 99580 of the Public Utilities Code is amended*  
16 *to read:*

17 99580. (a) Pursuant to subdivision (e) of Section 640 of the  
18 Penal Code, a public transportation agency may enact and enforce  
19 an ordinance to impose and enforce an administrative penalty for  
20 any of the acts described in subdivision (b). ~~The ordinance shall~~  
21 ~~include the provisions of this chapter and shall not apply to minors.~~

22 (b) (1) Evasion of the payment of a fare of the system.

23 (2) Misuse of a transfer, pass, ticket, or token with the intent to  
24 evade the payment of a fare.

25 (3) Playing *unreasonably loud* sound equipment on or in a  
26 system facility or ~~vehicle~~; *vehicle, or failing to comply with the*  
27 *warning of a transit official related to disturbing another person*  
28 *by loud or unreasonable noise.*

29 (4) ~~Smoking~~; *Smoking a tobacco product*, eating, or drinking  
30 in or on a system facility or vehicle in those areas where those  
31 activities are prohibited by that system.

32 (5) Expecterating upon a system facility or vehicle.

33 (6) Willfully disturbing others on or in a system facility or  
34 vehicle by engaging in boisterous or unruly behavior.

35 (7) Carrying an explosive or acid, flammable liquid, or toxic or  
36 hazardous material in a system facility or vehicle.

37 (8) Urinating or defecating in a system facility or vehicle, except  
38 in a lavatory. However, this paragraph shall not apply to a person  
39 who cannot comply with this paragraph as a result of a disability,  
40 age, or a medical condition.

1 (9) (A) Willfully blocking the free movement of another person  
2 in a system facility or vehicle.

3 (B) This paragraph shall not be interpreted to affect any lawful  
4 activities permitted or ~~first amendment~~ *First Amendment* rights  
5 protected under the laws of this state or applicable federal law,  
6 including, but not limited to, laws related to collective bargaining,  
7 labor relations, or labor disputes.

8 (10) Skateboarding, roller skating, bicycle riding, or roller  
9 blading in a system facility, including a parking structure, or in a  
10 system vehicle. This paragraph does not apply to an activity that  
11 is necessary for utilization of a system facility by a bicyclist,  
12 including, but not limited to, an activity that is necessary for  
13 parking a bicycle or transporting a bicycle aboard a system vehicle,  
14 if that activity is conducted with the permission of the agency of  
15 the system in a manner that does not interfere with the safety of  
16 the bicyclist or other patrons of the system facility.

17 (11) (A) Unauthorized use of a discount ticket or failure to  
18 present, upon request from a system representative, acceptable  
19 proof of eligibility to use a discount ticket, in accordance with  
20 Section 99155, and posted system identification policies when  
21 entering or exiting a system station or vehicle. Acceptable proof  
22 of eligibility must be clearly defined in the posting.

23 (B) ~~In the event that~~ *If* an eligible discount ticket user is not in  
24 possession of acceptable proof at the time of request, an issued  
25 notice of fare evasion or passenger conduct violation shall be held  
26 for a period of 72 hours to allow the user to produce acceptable  
27 proof. If the proof is provided, that notice shall be voided. If the  
28 proof is not produced within that time period, that notice shall be  
29 processed.

30 (12) ~~Sale~~ *Selling* or peddling ~~of~~ any goods, merchandise,  
31 property, or services of any kind whatsoever on the facilities,  
32 vehicles, or property of the public transportation system without  
33 the express written consent of the public transportation system or  
34 its duly authorized representatives.

35 (13) *Failing to yield seating reserved for an elderly or disabled*  
36 *person.*

37 (c) (1) The public transportation agency may contract with a  
38 private vendor or governmental agency for the processing of notices  
39 of fare evasion or passenger conduct violation, and notices of

1 delinquent fare evasion or passenger conduct violation pursuant  
2 to Section 99581.

3 (2) For the purpose of this chapter, “processing agency” means  
4 either of the following:

5 (A) The agency issuing the notice of fare evasion or passenger  
6 conduct violation and the notice of delinquent fare evasion or  
7 passenger conduct violation.

8 (B) The party responsible for processing the notice of fare  
9 evasion or passenger conduct violation and the notice of delinquent  
10 violation, if a contract is entered into pursuant to paragraph (1).

11 (3) For the purpose of this chapter, “fare evasion or passenger  
12 conduct violation penalty” includes, but is not limited to, a late  
13 payment penalty, administrative fee, fine, assessment, and costs  
14 of collection as provided for in the ordinance.

15 (4) For the purpose of this chapter, “public transportation  
16 agency” shall mean a public agency that provides public  
17 transportation as defined in paragraph (1) of subdivision (f) of  
18 Section 1 of Article XIX A of the California Constitution.

19 (5) All fare evasion and passenger conduct violation penalties  
20 collected pursuant to this chapter shall be deposited in the general  
21 fund of the county in which the citation is administered.

22 (d) (1) If a fare evasion or passenger conduct violation is  
23 observed by a person authorized to enforce the ordinance, a notice  
24 of fare evasion or passenger conduct violation shall be issued. The  
25 notice shall set forth the violation, including reference to the  
26 ordinance setting forth the administrative penalty, the date of the  
27 violation, the approximate time, and the location where the  
28 violation occurred. The notice shall include a printed statement  
29 indicating the date payment is required to be made, and the  
30 procedure for contesting the notice. The notice shall be served by  
31 personal service upon the violator. The notice, or copy of the  
32 notice, shall be considered a record kept in the ordinary course of  
33 business of the issuing agency and the processing agency, and  
34 shall be prima facie evidence of the facts contained in the notice  
35 establishing a rebuttable presumption affecting the burden of  
36 producing evidence.

37 (2) When a notice of fare evasion or passenger conduct violation  
38 has been served, the person issuing the notice shall file the notice  
39 with the processing agency.

1 (3) If, after a notice of fare evasion or passenger conduct  
2 violation is issued pursuant to this section, the issuing officer  
3 determines that there is incorrect data on the notice, including, but  
4 not limited to, the date or time, the issuing officer may indicate in  
5 writing on a form attached to the original notice the necessary  
6 correction to allow for the timely entry of the corrected notice on  
7 the processing agency's data system. A copy of the correction shall  
8 be mailed to the address provided by the person cited at the time  
9 the original notice of fare evasion or passenger conduct violation  
10 was served.

11 (4) If a person contests a notice of fare evasion or passenger  
12 conduct violation, the issuing agency shall proceed in accordance  
13 with Section 99581.

14 (e) In setting the amounts of administrative penalties for the  
15 violations listed in subdivision (b), the public transportation agency  
16 shall not establish penalty amounts that exceed the maximum fine  
17 amount set forth in Section 640 of the Penal Code.

18 (f) A person who receives a notice of fare evasion or passenger  
19 conduct violation pursuant to this section shall not be subject to  
20 citation for a violation of Section 640 of the Penal Code.

21 (g) If an entity enacts an ordinance pursuant to this section it  
22 shall, both two years and five years after enactment of the  
23 ordinance, report all of the following information to the Senate  
24 Committee on Transportation and Housing and the Assembly  
25 Committee on Transportation:

26 (1) A description of the ordinance, including the circumstances  
27 under which an alleged violator is afforded the opportunity to  
28 complete the administrative process.

29 (2) The amount of the administrative penalties.

30 (3) The number and types of citations administered pursuant to  
31 the ordinance.

32 (4) To the extent available, a comparison of the number and  
33 types of citations administered pursuant to the ordinance with the  
34 number and types of citations issued for similar offenses and  
35 administered through the courts both in the two years prior to the  
36 ordinance and, if any, since enactment of the ordinance.

37 (5) A discussion of the effect of the ordinance on passenger  
38 behavior.

39 (6) A discussion of the effect of the ordinance on revenues to  
40 the entity described in subdivision (a) and, in consultation with

1 the superior courts, the cost savings to the county courts. The  
2 superior courts are encouraged to collaborate on and provide data  
3 for this report.

4 (h) For purposes of this section, “smoking” has the meaning  
5 of the definition in subdivision (c) of Section 22950.5 of the  
6 Business and Professions Code.

7 (i) For purposes of this section, “tobacco product” means a  
8 product or device as defined in subdivision (d) of Section 22950.5  
9 of the Business and Professions Code.

10 SEC. 2.7. Section 99580 of the Public Utilities Code is amended  
11 to read:

12 99580. (a) Pursuant to subdivision (e) of Section 640 of the  
13 Penal Code, a public transportation agency may enact and enforce  
14 an ordinance to impose and enforce an administrative penalty for  
15 any of the acts described in subdivision (b). ~~The ordinance shall~~  
16 ~~include the provisions of this chapter and shall not apply to minors.~~

- 17 (b) (1) Evasion of the payment of a fare of the system.
- 18 (2) Misuse of a transfer, pass, ticket, or token with the intent to  
19 evade the payment of a fare.
- 20 (3) Playing *unreasonably loud* sound equipment on or in a  
21 system facility or ~~vehicle~~; *vehicle*, or failing to comply with the  
22 warning of a transit official related to disturbing another person  
23 by loud or unreasonable noise.
- 24 (4) ~~Smoking~~, *Smoking a tobacco product*, eating, or drinking  
25 in or on a system facility or vehicle in those areas where those  
26 activities are prohibited by that system.
- 27 (5) Expectorating upon a system facility or vehicle.
- 28 (6) Willfully disturbing others on or in a system facility or  
29 vehicle by engaging in boisterous or unruly behavior.
- 30 (7) Carrying an explosive or acid, flammable liquid, or toxic or  
31 hazardous material in a system facility or vehicle.
- 32 (8) Urinating or defecating in a system facility or vehicle, except  
33 in a lavatory. However, this paragraph shall not apply to a person  
34 who cannot comply with this paragraph as a result of a disability,  
35 age, or a medical condition.
- 36 (9) (A) Willfully blocking the free movement of another person  
37 in a system facility or vehicle.
- 38 (B) This paragraph shall not be interpreted to affect any lawful  
39 activities permitted or ~~first amendment~~ *First Amendment* rights  
40 protected under the laws of this state or applicable federal law,

1 including, but not limited to, laws related to collective bargaining,  
2 labor relations, or labor disputes.

3 (10) Skateboarding, roller skating, bicycle riding, or roller  
4 blading in a system facility, including a parking structure, or in a  
5 system vehicle. This paragraph does not apply to an activity that  
6 is necessary for utilization of a system facility by a bicyclist,  
7 including, but not limited to, an activity that is necessary for  
8 parking a bicycle or transporting a bicycle aboard a system vehicle,  
9 if that activity is conducted with the permission of the agency of  
10 the system in a manner that does not interfere with the safety of  
11 the bicyclist or other patrons of the system facility.

12 (11) (A) Unauthorized use of a discount ticket or failure to  
13 present, upon request from a system representative, acceptable  
14 proof of eligibility to use a discount ticket, in accordance with  
15 Section 99155, and posted system identification policies when  
16 entering or exiting a system station or vehicle. Acceptable proof  
17 of eligibility must be clearly defined in the posting.

18 (B) ~~In the event that~~ *If* an eligible discount ticket user is not in  
19 possession of acceptable proof at the time of request, an issued  
20 notice of fare evasion or passenger conduct violation shall be held  
21 for a period of 72 hours to allow the user to produce acceptable  
22 proof. If the proof is provided, that notice shall be voided. If the  
23 proof is not produced within that time period, that notice shall be  
24 processed.

25 (12) ~~Sale~~ *Selling* or peddling ~~of~~ any goods, merchandise,  
26 property, or services of any kind whatsoever on the facilities,  
27 vehicles, or property of the public transportation system without  
28 the express written consent of the public transportation system or  
29 its duly authorized representatives.

30 (13) *Failing to yield seating reserved for an elderly or disabled*  
31 *person.*

32 (c) (1) The public transportation agency may contract with a  
33 private vendor or governmental agency for the processing of notices  
34 of fare evasion or passenger conduct violation, and notices of  
35 delinquent fare evasion or passenger conduct violation pursuant  
36 to Section 99581.

37 (2) For the purpose of this chapter, “processing agency” means  
38 either of the following:

1 (A) The agency issuing the notice of fare evasion or passenger  
2 conduct violation and the notice of delinquent fare evasion or  
3 passenger conduct violation.

4 (B) The party responsible for processing the notice of fare  
5 evasion or passenger conduct violation and the notice of delinquent  
6 violation, if a contract is entered into pursuant to paragraph (1).

7 (3) For the purpose of this chapter, “fare evasion or passenger  
8 conduct violation penalty” includes, but is not limited to, a late  
9 payment penalty, administrative fee, fine, assessment, and costs  
10 of collection as provided for in the ordinance.

11 (4) For the purpose of this chapter, “public transportation  
12 agency” shall mean a public agency that provides public  
13 transportation as defined in paragraph (1) of subdivision (f) of  
14 Section 1 of Article XIX A of the California Constitution.

15 (5) All fare evasion and passenger conduct violation penalties  
16 collected pursuant to this chapter shall be deposited in the general  
17 fund of the county in which the citation is administered.

18 *(d) (1) If a fare evasion or passenger conduct violation is*  
19 *observed by a person authorized to enforce the ordinance, a notice*  
20 *of fare evasion or passenger conduct violation shall be issued. The*  
21 *notice shall set forth all of the following:*

22 *(A) The violation, including reference to the ordinance setting*  
23 *forth the administrative penalty.*

24 *(B) The date and approximate time of the violation, and the*  
25 *location where the violation occurred.*

26 *(C) A printed statement indicating the date payment is required*  
27 *to be made.*

28 *(D) The procedure for contesting the notice.*

29 *(E) A printed statement that the person may be charged with*  
30 *an infraction or misdemeanor pursuant to Section 640 of the Penal*  
31 *Code if the administrative penalty is not paid when due or*  
32 *dismissed pursuant to the procedure for contesting the notice.*

33 ~~(d) (1) If a fare evasion or passenger conduct violation is~~  
34 ~~observed by a person authorized to enforce the ordinance, a notice~~  
35 ~~of fare evasion or passenger conduct violation shall be issued. The~~  
36 ~~notice shall set forth the violation, including reference to the~~  
37 ~~ordinance setting forth the administrative penalty, the date of the~~  
38 ~~violation, the approximate time, and the location where the~~  
39 ~~violation occurred. The notice shall include a printed statement~~

1 ~~indicating the date payment is required to be made, and the~~  
2 ~~procedure for contesting the notice. The~~

3 (2) *The* notice shall be served by personal service upon the  
4 violator. The notice, or copy of the notice, shall be considered a  
5 record kept in the ordinary course of business of the issuing agency  
6 and the processing agency, and shall be prima facie evidence of  
7 the facts contained in the notice establishing a rebuttable  
8 presumption affecting the burden of producing evidence.

9 ~~(2)~~

10 (3) When a notice of fare evasion or passenger conduct violation  
11 has been served, the person issuing the notice shall file the notice  
12 with the processing agency.

13 ~~(3)~~

14 (4) If, after a notice of fare evasion or passenger conduct  
15 violation is issued pursuant to this section, the issuing officer  
16 determines that there is incorrect data on the notice, including, but  
17 not limited to, the date or time, the issuing officer may indicate in  
18 writing on a form attached to the original notice the necessary  
19 correction to allow for the timely entry of the corrected notice on  
20 the processing agency's data system. A copy of the correction shall  
21 be mailed to the address provided by the person cited at the time  
22 the original notice of fare evasion or passenger conduct violation  
23 was served.

24 ~~(4)~~

25 (5) If a person contests a notice of fare evasion or passenger  
26 conduct violation, the issuing agency shall proceed in accordance  
27 with Section 99581.

28 (e) In setting the amounts of administrative penalties for the  
29 violations listed in subdivision (b), the public transportation agency  
30 shall not establish penalty amounts that exceed the maximum fine  
31 amount set forth in Section 640 of the Penal Code.

32 (f) (1) A person who receives a notice of fare evasion or  
33 passenger conduct violation pursuant to this section shall not be  
34 subject to citation for a violation of Section 640 of the Penal Code.  
35 *Code, if the person pays the administrative penalty when due or*  
36 *successfully completes the civil administrative process pursuant*  
37 *to this chapter.*

38 (2) *A person who fails to pay the administrative penalty when*  
39 *due or successfully complete the civil administrative process*

1 *pursuant to this chapter may be charged with an infraction or*  
2 *misdemeanor pursuant to Section 640 of the Penal Code.*

3 *(3) If a person is charged with an infraction or misdemeanor*  
4 *pursuant to Section 640 of the Penal Code, after failing to pay the*  
5 *administrative penalty or successfully complete the civil*  
6 *administrative process pursuant to this chapter, the processing*  
7 *agency shall dismiss the original notice of fare evasion or*  
8 *passenger conduct violation and make no further attempts to collect*  
9 *the administrative penalty.*

10 *(4) A person who is charged with an infraction or misdemeanor*  
11 *pursuant to Section 640 of the Penal Code, after failing to pay the*  
12 *administrative penalty or successfully complete the civil*  
13 *administrative process pursuant to this chapter, shall be personally*  
14 *served by the processing agency with a new notice of fare evasion*  
15 *or passenger conduct violation that sets forth the violation under*  
16 *Section 640 of the Penal Code.*

17 (g) If an entity enacts an ordinance pursuant to this section it  
18 shall, both two years and five years after enactment of the  
19 ordinance, report all of the following information to the Senate  
20 Committee on Transportation and Housing and the Assembly  
21 Committee on Transportation:

22 (1) A description of the ordinance, including the circumstances  
23 under which an alleged violator is afforded the opportunity to  
24 complete the administrative process.

25 (2) The amount of the administrative penalties.

26 (3) The number and types of citations administered pursuant to  
27 the ordinance.

28 (4) To the extent available, a comparison of the number and  
29 types of citations administered pursuant to the ordinance with the  
30 number and types of citations issued for similar offenses and  
31 administered through the courts both in the two years prior to the  
32 ordinance and, if any, since enactment of the ordinance.

33 (5) A discussion of the effect of the ordinance on passenger  
34 behavior.

35 (6) A discussion of the effect of the ordinance on revenues to  
36 the entity described in subdivision (a) and, in consultation with  
37 the superior courts, the cost savings to the county courts. The  
38 superior courts are encouraged to collaborate on and provide data  
39 for this report.

1 (h) For purposes of this section, “smoking” has the meaning  
2 of the definition in subdivision (c) of Section 22950.5 of the  
3 Business and Professions Code.

4 (i) For purposes of this section, “tobacco product” means a  
5 product or device as defined in subdivision (d) of Section 22950.5  
6 of the Business and Professions Code.

7 SEC. 3. (a) Section 2.3 of this bill incorporates amendments  
8 to Section 99580 of the Public Utilities Code proposed by both  
9 this bill and Assembly Bill 869. It shall only become operative if  
10 (1) both bills are enacted and become effective on or before  
11 January 1, 2016, (2) each bill amends Section 99580 of the Public  
12 Utilities Code, (3) neither Assembly Bill 6 of the Second  
13 Extraordinary Session or Senate Bill 5 of the Second Extraordinary  
14 Session are enacted or as enacted neither amends Section 99580  
15 of the Public Utilities Code, and (4) this bill is enacted after  
16 Assembly Bill 869, in which case Sections 2, 2.5, and 2.7 of this  
17 bill shall not become operative.

18 (b) Section 2.5 of this bill incorporates amendments to Section  
19 99580 of the Public Utilities Code proposed by this bill and  
20 Assembly Bill 6 of the Second Extraordinary Session and Senate  
21 Bill 5 of the Second Extraordinary Session. It shall only become  
22 operative if (1) this bill and either Assembly Bill 6 of the Second  
23 Extraordinary Session or Senate Bill 5 of the Second Extraordinary  
24 Session, or both of them, are enacted and become effective on or  
25 before January 1, 2016, (2) each enacted bill amends Section  
26 99580 of the Public Utilities Code, (3) Assembly Bill 869 is not  
27 enacted or as enacted does not amend that section, and (4) this  
28 bill is enacted after the other bill or bills, in which case Section  
29 99580 of the Public Utilities Code, as amended by Assembly Bill  
30 6 of the Second Extraordinary Session or Senate Bill 5 of the  
31 Second Extraordinary Session shall remain operative only until  
32 the operative date of this bill, at which time Section 2.5 of this bill  
33 shall become operative and Sections 2, 2.3, and 2.7 of this bill  
34 shall not become operative.

35 (c) Section 2.7 of this bill incorporates amendments to Section  
36 99580 of the Public Utilities Code proposed by this bill, Assembly  
37 Bill 869, Assembly Bill 6 of the Second Extraordinary Session,  
38 and Senate Bill 5 of the Second Extraordinary Session. It shall  
39 only become operative if (1) this bill, Assembly Bill 869, and either  
40 Assembly Bill 6 of the Second Extraordinary Session or Senate

1 *Bill 5 of the Second Extraordinary Session, or both of them, are*  
2 *enacted and become effective on or before January 1, 2016, (2)*  
3 *each bill amends Section 99580 of the Public Utilities Code, and*  
4 *(3) this bill is enacted after the other bills, in which case Section*  
5 *99580 of the Public Utilities Code, as amended by Assembly Bill*  
6 *6 of the Second Extraordinary Session or Senate Bill 5 of the*  
7 *Second Extraordinary Session shall remain operative only until*  
8 *the operative date of this bill, at which time Section 2.7 of this bill*  
9 *shall become operative and Sections 2, 2.3, and 2.5 of this bill*  
10 *shall not become operative.*

11 ~~SEC. 3.~~

12 *SEC. 4.* No reimbursement is required by this act pursuant to  
13 Section 6 of Article XIII B of the California Constitution because  
14 the only costs that may be incurred by a local agency or school  
15 district will be incurred because this act creates a new crime or  
16 infraction, eliminates a crime or infraction, or changes the penalty  
17 for a crime or infraction, within the meaning of Section 17556 of  
18 the Government Code, or changes the definition of a crime within  
19 the meaning of Section 6 of Article XIII B of the California  
20 Constitution.