

AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 628

Introduced by Assembly Member Block

February 25, 2009

An act to amend Sections 23302 and 40255 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 628, as amended, Block. Vehicles: toll evasion violations.

(1) Existing law makes it unlawful for any person to refuse to pay tolls or other charges on any vehicular crossing or toll highway and provides that it is prima facie evidence of a violation of this provision for any person to enter upon any vehicular crossing without either lawful money of the United States in the person's immediate possession in an amount sufficient to pay the prescribed tolls or other charges due from that person or a transponder or other electronic toll payment device associated with a valid Automatic Vehicle Identification account with a balance sufficient to pay those tolls. A violation of these provisions is an infraction.

This bill would additionally provide that, for vehicular crossings and toll highways where the issuing agency permits pay-by-plate toll processing and payment of tolls and other charges in accordance with policies adopted by the issuing agency, it is prima facie evidence of a toll evasion violation for a person to enter the vehicular crossing or toll highway without at least one of the following: (A) lawful money of the United States in the person's immediate possession in an amount sufficient to pay the prescribed tolls or other charges due from that person, or (B) a transponder or other electronic toll payment device

associated with a valid Automatic Vehicle Identification account with a balance sufficient to pay those tolls, or (C) valid California vehicle license plates properly affixed to both the front and rear of the vehicle in which that person enters onto the vehicular crossing or toll highway. Where electronic toll collection is the only other method of paying tolls or other charges, the bill would provide that it is prima facie evidence of a toll evasion violation for a person to enter the vehicular crossing or toll highway without either (i) a transponder or other electronic toll payment device associated with a valid Automatic Vehicle Identification account with a balance sufficient to pay those tolls, or (ii) valid California vehicle license plates properly affixed to both the front and rear of the vehicle in which that person enters onto the vehicular crossing or toll highway.

(2) Existing law provides that the officer or person authorized to issue a notice of toll evasion violation is not required to participate in an administrative review of the toll evasion violation and that the issuing agency is not required to produce any evidence other than the notice of toll evasion violation or a copy thereof, information received from the department identifying the registered owner of the vehicle, and a statement under penalty of perjury from the person reporting the violations. Under existing law perjury is a crime.

This bill would require, for a toll evasion violation that occurs on a vehicular crossing or toll highway where the issuing agency allows pay-by-plate toll processing and payment, the required statement under penalty of perjury from the officer or person reporting the violation to include a statement that the tolls or other charges and any applicable fee were not paid in accordance with the issuing agency's policies for pay-by-plate toll processing and payment.

(3) The bill would make other technical, nonsubstantive and conforming changes to these provisions.

Because the bill would create new crimes, the bill would impose a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

SECTION 1. Section 23302 of the Vehicle Code is amended to read:

23302. (a) It is unlawful for a person to fail to pay tolls or other charges on any vehicular crossing or toll highway. ~~Subject to~~ *Except as otherwise provided in* subdivision (b), (c), or (d), it is prima facie evidence of a violation of this section for a person to enter upon any vehicular crossing without either lawful money of the United States in the person's immediate possession in an amount sufficient to pay the prescribed tolls or other charges due from that person or a transponder or other electronic toll payment device associated with a valid Automatic Vehicle Identification account with a balance sufficient to pay those tolls. If a transponder or other electronic toll payment device is used to pay tolls or other charges due, the device shall be located in, or on the vehicle in a location so as to be visible for the purpose of enforcement at all times when the vehicle is located on the vehicular crossing or toll highway. Where required by the operator of a vehicular crossing or toll highway, this requirement applies even if the operator offers free travel or nontoll accounts to certain classes of users.

(b) For vehicular crossings and toll highways that use electronic toll collection as the only method of paying tolls or other charges, it is prima facie evidence of a violation of this section for a person to enter the vehicular crossing or toll highway without a transponder or other electronic toll payment device associated with a valid Automatic Vehicle Identification account with a balance sufficient to pay those tolls.

~~(c) Subject to subdivision (d), for~~ For vehicular crossings and toll highways where the issuing agency, as defined in Section 40250, permits pay-by-plate toll processing and payment of tolls and other charges in accordance with policies adopted by the issuing agency, it is prima facie evidence of a violation of this section for a person to enter the vehicular crossing or toll highway without at least one of the following:

(1) Lawful money of the United States in the person's immediate possession in an amount sufficient to pay the prescribed tolls or other charges due from that person.

1 (2) A transponder or other electronic toll payment device
2 associated with a valid Automatic Vehicle Identification account
3 with a balance sufficient to pay those tolls.

4 (3) Valid California vehicle license plates properly affixed to
5 both the front and rear of the vehicle in which that person enters
6 onto the vehicular crossing or toll highway.

7 (d) For vehicular crossings and toll highways where the issuing
8 agency, as defined in Section 40250, permits pay-by-plate toll
9 processing and payment of tolls and other charges in accordance
10 with policies adopted by the issuing agency, and where electronic
11 toll collection is the only other method of paying tolls or other
12 charges, it is prima facie evidence of a violation of this section for
13 a person to enter the vehicular crossing or toll highway without
14 either a transponder or other electronic toll payment device
15 associated with a valid Automatic Vehicle Identification account
16 with a balance sufficient to pay those tolls or valid California
17 vehicle license plates properly affixed to both the front and rear
18 of the vehicle in which that person enters onto the vehicular
19 crossing or toll highway.

20 (e) ~~As~~ As used in this section, “Pay-by-plate toll processing
21 and payment” means an issuing agency’s use of on-road vehicle
22 license plate identification recognition technology to accept
23 payment of tolls within a specified period of time following the
24 use of the vehicular crossing or toll highway by persons entering
25 upon the vehicular crossing or toll highway without the payment
26 of tolls or other charges by either cash payment in lawful money
27 of the United States or use of an electronic toll payment device
28 associated with a valid Automatic Vehicle Identification account
29 with a balance sufficient to pay the tolls or other charges, in
30 accordance with policies adopted by the issuing agency.

31 (f) *This section does not require an issuing agency to implement*
32 *pay-by-plate toll processing.*

33 SEC. 2. Section 40255 of the Vehicle Code is amended to read:
34 40255. (a) Within 21 days from the issuance of the notice of
35 toll evasion violation, or within 15 days from the mailing of the
36 notice of delinquent toll evasion, whichever occurs later, a person
37 may contest a notice of toll evasion violation or a notice of
38 delinquent toll evasion. In that case, the processing agency shall
39 do the following:

1 (1) The processing agency shall either investigate with its own
2 records and staff or request that the issuing agency investigate the
3 circumstances of the notice with respect to the contestant's written
4 explanation of reasons for contesting the toll evasion violation. If,
5 based upon the results of that investigation, the processing agency
6 is satisfied that the violation did not occur or that the registered
7 owner was not responsible for the violation, the processing agency
8 shall cancel the notice of toll evasion violation and make an
9 adequate record of the reasons for canceling the notice. The
10 processing agency shall mail the results of the investigation to the
11 person who contested the notice of toll evasion violation or the
12 notice of delinquent toll evasion violation.

13 (2) If the person contesting a notice of toll evasion violation or
14 notice of delinquent toll evasion violation is not satisfied with the
15 results of the investigation provided for in paragraph (1), the person
16 may, within 15 days of the mailing of the results of the
17 investigation, deposit the amount of the toll evasion penalty and
18 request an administrative review. After January 1, 1996, an
19 administrative hearing shall be held within 90 calendar days
20 following the receipt of a request for an administrative hearing,
21 excluding any time tolled pursuant to this article. The person
22 requesting the hearing may request one continuance, not to exceed
23 21 calendar days.

24 (b) The administrative review procedure shall consist of the
25 following:

26 (1) The person requesting an administrative review shall indicate
27 to the processing agency his or her election for a review by mail
28 or personal conference.

29 (2) If the person requesting an administrative review is a minor,
30 that person shall be permitted to appear at an administrative review
31 or admit responsibility for a toll evasion violation without the
32 necessity of the appointment of a guardian. The processing agency
33 may proceed against that person in the same manner as if that
34 person were an adult.

35 (3) (A) The administrative review shall be conducted before a
36 reviewer designated to conduct the review by the issuing agency's
37 governing body or chief executive officer. In the case of violations
38 on facilities developed pursuant to Section 143 of the Streets and
39 Highways Code, the processing agency shall contract with a public
40 agency or a private entity that has no financial interest in the facility

1 for the provision of administrative review services pursuant to this
2 subdivision. The costs of those administrative review services shall
3 be included in the administrative fees authorized by this article.

4 (B) In addition to any other requirements of employment, a
5 reviewer shall demonstrate those qualifications, training, and
6 objectivity prescribed by the issuing agency's governing body or
7 chief executive as are necessary and which are consistent with the
8 duties and responsibilities set forth in this article.

9 (C) The examiner's continued employment, performance
10 evaluation, compensation, and benefits shall not be directly or
11 indirectly linked to the amount of fines collected by the examiner.

12 (4) The officer or person authorized to issue a notice of toll
13 evasion violation shall not be required to participate in an
14 administrative review. The issuing agency shall not be required to
15 produce any evidence other than the notice of toll evasion violation
16 or copy thereof, information received from the department
17 identifying the registered owner of the vehicle, and a statement
18 under penalty of perjury from the person reporting the violation.
19 For a toll evasion violation that occurs on a vehicular crossing or
20 toll highway where the issuing agency allows pay-by-plate toll
21 processing and payment, as defined in Section 23302, the required
22 statement under penalty of perjury from the person reporting the
23 violation shall include a statement that the tolls or other charges
24 and any applicable fee was not paid in accordance with the issuing
25 agency's policies for pay-by-plate toll processing and payment.
26 The documentation in proper form shall be considered prima facie
27 evidence of the violation.

28 (5) The review shall be conducted in accordance with the written
29 procedure established by the processing agency which shall ensure
30 fair and impartial review of contested toll evasion violations. The
31 agency's final decision may be delivered personally or by first-class
32 mail.

33 SEC. 3. No reimbursement is required by this act pursuant to
34 Section 6 of Article XIII B of the California Constitution because
35 the only costs that may be incurred by a local agency or school
36 district will be incurred because this act creates a new crime or
37 infraction, eliminates a crime or infraction, or changes the penalty
38 for a crime or infraction, within the meaning of Section 17556 of
39 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

O