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CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 628

Introduced by Assembly Member Block
(~~Coauthor: Assembly Member Harkey~~ Coauthors: Assembly
Members Harkey and Salas)

February 25, 2009

An act to amend Sections 23302, 40255, and 40273 of, and to add Section 23301.8 to, 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 require an issuing agency that permits pay-by-plate toll payment to communicate, as practicable, the pay-by-plate toll

amount in the same manner as it communicates other toll payment methods and provide certain publicly available information on how pay-by-plate toll payment works. The bill would additionally provide that, for vehicular crossings and toll highways where the issuing agency permits pay-by-plate toll 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 instead, for a toll evasion violation that occurs on a vehicular crossing or toll highway where the issuing agency allows pay-by-plate toll payment, that the required evidence consisting of a statement be from the officer or person authorized to issue a notice of toll evasion and 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. The bill would not require that this statement be made under penalty of perjury. The

bill would require that any officer or person who knowingly provides false information pursuant to this provision be subject to a civil penalty for each violation in the amount of \$250 up to a maximum amount of \$2,500. The bill would also authorize any public prosecutor to bring an action for a civil penalty in the name of the people of the State of California.

(3) Existing law requires that any information obtained through the use of automated devices shall not be used for any purpose other than to identify, and obtain the mailing address information of, toll evasion violators, to facilitate the serving of notices of toll evasion violations and notices of delinquent toll evasion violations.

This bill would additionally provide that this information shall not be used for any purpose other than to identify, and obtain the mailing address information of, persons entering a vehicular crossing and toll highway where pay-by-plate toll payment is permitted by the toll operator to facilitate the collection of tolls.

(4) 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.

(5) 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 23301.8 is added to the Vehicle Code,
2 to read:
3 23301.8. Where an issuing agency permits pay-by-plate toll
4 payment as described in subdivision (e) of Section 23302, it shall
5 communicate, as practicable, the pay-by-plate toll amount in the
6 same manner as it communicates other toll payment methods. The
7 issuing agency shall provide publicly available information on
8 how pay-by-plate toll payment works, including the toll amount,
9 process for payment, and period of time a vehicle has to resolve
10 the payment before an issuing agency may process the trip as a

1 violation under Section 40255. Communication of this information
2 may include the Department of Transportation's approved signage,
3 posting of information on the issuing agency's Internet Web site,
4 media advertising, public meeting or disclosure as required by the
5 issuing agency's policies, or other methods of communication.
6 Except where the issuing agency has an agreement with a vehicle
7 owner ~~otherwise that specifies in advance any administrative fees~~
8 *that will be imposed on the owner for pay-by-plate toll payment,*
9 administrative costs shall be incorporated into the pay-by-plate
10 toll amount, and no additional administrative costs shall be added
11 above the posted pay-by-plate toll amount.

12 SEC. 2. Section 23302 of the Vehicle Code is amended to read:

13 23302. (a) It is unlawful for a person to fail to pay tolls or
14 other charges on any vehicular crossing or toll highway. Except
15 as otherwise provided in subdivision (b), (c), or (d), it is prima
16 facie evidence of a violation of this section for a person to enter
17 upon any vehicular crossing without either lawful money of the
18 United States in the person's immediate possession in an amount
19 sufficient to pay the prescribed tolls or other charges due from that
20 person or a transponder or other electronic toll payment device
21 associated with a valid Automatic Vehicle Identification account
22 with a balance sufficient to pay those tolls. If a transponder or
23 other electronic toll payment device is used to pay tolls or other
24 charges due, the device shall be located in, or on the vehicle in a
25 location so as to be visible for the purpose of enforcement at all
26 times when the vehicle is located on the vehicular crossing or toll
27 highway. Where required by the operator of a vehicular crossing
28 or toll highway, this requirement applies even if the operator offers
29 free travel or nontoll accounts to certain classes of users.

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

37 (c) For vehicular crossings and toll highways where the issuing
38 agency, as defined in Section 40250, permits pay-by-plate payment
39 of tolls and other charges in accordance with policies adopted by
40 the issuing agency, it is prima facie evidence of a violation of this

1 section for a person to enter the vehicular crossing or toll highway
2 without at least one of the following:

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

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

9 (3) Valid vehicle license plates properly attached pursuant to
10 Section 4850.5 or 5200 to the vehicle in which that person enters
11 onto the vehicular crossing or toll highway.

12 (d) For vehicular crossings and toll highways where the issuing
13 agency, as defined in Section 40250, permits pay-by-plate payment
14 of tolls and other charges in accordance with policies adopted by
15 the issuing agency, and where electronic toll collection is the only
16 other method of paying tolls or other charges, it is prima facie
17 evidence of a violation of this section for a person to enter the
18 vehicular crossing or toll highway without either a transponder or
19 other electronic toll payment device associated with a valid
20 Automatic Vehicle Identification account with a balance sufficient
21 to pay those tolls or valid vehicle license plates properly attached
22 to the vehicle pursuant to Section 4850.5 or 5200 in which that
23 person enters onto the vehicular crossing or toll highway.

24 (e) As used in this article, "pay-by-plate toll payment" means
25 an issuing agency's use of on-road vehicle license plate
26 identification recognition technology to accept payment of tolls
27 in accordance with policies adopted by the issuing agency.

28 (f) This section does not require an issuing agency to offer
29 pay-by-plate toll processing as a method for paying tolls.

30 SEC. 3. Section 40255 of the Vehicle Code is amended to read:

31 40255. (a) Within 21 days from the issuance of the notice of
32 toll evasion violation, or within 15 days from the mailing of the
33 notice of delinquent toll evasion, whichever occurs later, a person
34 may contest a notice of toll evasion violation or a notice of
35 delinquent toll evasion. In that case, the processing agency shall
36 do the following:

37 (1) The processing agency shall either investigate with its own
38 records and staff or request that the issuing agency investigate the
39 circumstances of the notice with respect to the contestant's written
40 explanation of reasons for contesting the toll evasion violation. If,

1 based upon the results of that investigation, the processing agency
2 is satisfied that the violation did not occur or that the registered
3 owner was not responsible for the violation, the processing agency
4 shall cancel the notice of toll evasion violation and make an
5 adequate record of the reasons for canceling the notice. The
6 processing agency shall mail the results of the investigation to the
7 person who contested the notice of toll evasion violation or the
8 notice of delinquent toll evasion violation.

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

20 (b) The administrative review procedure shall consist of the
21 following:

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

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

31 (3) (A) The administrative review shall be conducted before a
32 reviewer designated to conduct the review by the issuing agency's
33 governing body or chief executive officer. In the case of violations
34 on facilities developed pursuant to Section 143 of the Streets and
35 Highways Code, the processing agency shall contract with a public
36 agency or a private entity that has no financial interest in the facility
37 for the provision of administrative review services pursuant to this
38 subdivision. The costs of those administrative review services shall
39 be included in the administrative fees authorized by this article.

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

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

9 (4) The officer or person authorized to issue a notice of toll
10 evasion violation shall not be required to participate in an
11 administrative review. The issuing agency shall not be required to
12 produce any evidence other than the notice of toll evasion violation
13 or copy thereof, information received from the department
14 identifying the registered owner of the vehicle, and a statement
15 under penalty of perjury from the person reporting the violation.
16 The documentation in proper form shall be considered prima facie
17 evidence of the violation.

18 (5) For a toll evasion violation that occurs on a vehicular
19 crossing or toll highway where the issuing agency allows
20 pay-by-plate toll payment, as defined in subdivision (e) of Section
21 23302, the officer or person authorized to issue a notice of toll
22 evasion violation shall not be required to participate in an
23 administrative review. The issuing agency shall not be required to
24 produce any evidence other than the notice of toll evasion violation
25 or copy thereof, information received from the department
26 identifying the registered owner of the vehicle, and a statement
27 from the officer or person authorized to issue a notice of toll
28 evasion that the tolls or other charges and any applicable fee was
29 not paid in accordance with the issuing agency's policies for
30 pay-by-plate toll payment. Any officer or person who knowingly
31 provides false information pursuant to this paragraph shall be
32 subject to a civil penalty for each violation in the minimum amount
33 of two hundred fifty dollars (\$250) up to a maximum amount of
34 two thousand five hundred dollars (\$2,500). An action for a civil
35 penalty may be brought by any public prosecutor in the name of
36 the people of the State of California. The documentation in proper
37 form shall be considered prima facie evidence of the violation.

38 (6) The review shall be conducted in accordance with the written
39 procedure established by the processing agency which shall ensure
40 fair and impartial review of contested toll evasion violations. The

1 agency's final decision may be delivered personally or by first-class
2 mail.

3 SEC. 4. Section 40273 of the Vehicle Code is amended to read:

4 40273. Any information obtained pursuant to this article
5 through the use of automated devices shall not be used for any
6 purpose other than to identify, and obtain the mailing address
7 information of, either of the following:

8 (a) Toll evasion violators, to facilitate the serving of notices of
9 toll evasion violations and notices of delinquent toll evasion
10 violations.

11 (b) Persons entering a vehicular crossing and toll highway where
12 pay-by-plate toll payment, as defined in Section 23302, is permitted
13 by the toll operator to facilitate the collection of tolls.

14 SEC. 5. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.