

AMENDED IN SENATE SEPTEMBER 2, 2009

AMENDED IN SENATE AUGUST 17, 2009

AMENDED IN ASSEMBLY MAY 4, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1336

Introduced by Assembly Member Eng

February 27, 2009

An act to amend Section 40207 of, and to add and repeal Article 3.6 (commencing with Section 40245) of Chapter 1 of Division 17 of, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1336, as amended, Eng. Vehicles: parking violations: digital photograph recordings.

Existing law authorizes the City and County of San Francisco, until January 1, 2012, to enforce parking violations in specified transit-only traffic lanes through the use of video image evidence.

This bill would authorize a local public agency to install and operate an automated parking enforcement system on local public agency-owned or local public agency-operated street sweepers for the purpose of digital photographing of *street-sweeping* parking violations occurring in street-sweeping parking lanes during the designated hours of street-sweeping operations, except when the vehicle is parked in a street-sweeping parking lane during the designated hours of street-sweeping operations after the street has already been cleaned. The bill also would require the local public agency, at least 30 days

prior to issuing notice of parking violations under these provisions, to make a public announcement of the automated parking enforcement system and to issue only warning notices during this 30-day period.

The bill would require a designated employee, who is qualified by the local public agency, to review the digital photograph recordings for determining whether these parking violations had occurred and to issue a notice of a parking violation to the registered owner within 15 days of the violation pursuant to a specified procedure. The digital photograph records would be confidential and would be available only to public agencies to enforce parking violations.

The bill would repeal these provisions as of January 1, 2015, and would make related changes.

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

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

1 SECTION 1. Section 40207 of the Vehicle Code, as amended
2 by Section 1 of Chapter 377 of the Statutes of 2007, is amended
3 to read:
4 40207. (a) The notice of delinquent parking violation shall
5 contain the information specified in subdivision (a) of Section
6 40202, subdivision (a) of Section 40241, or subdivision (a) of
7 Section 40248, as applicable, and Section 40203, and, additionally
8 shall contain a notice to the registered owner that, unless the
9 registered owner pays the parking penalty or contests the citation
10 within 21 calendar days from the date of issuance of the citation
11 or 14 calendar days after the mailing of the notice of delinquent
12 parking violation or completes and files an affidavit of nonliability
13 that complies with Section 40208 or 40209, the renewal of the
14 vehicle registration shall be contingent upon compliance with the
15 notice of delinquent parking violation. If the registered owner, by
16 appearance or by mail, makes payment to the processing agency
17 within 21 calendar days from the date of issuance of the citation
18 or 14 calendar days after the mailing of the notice of delinquent
19 parking violation, the parking penalty shall consist solely of the
20 amount of the original penalty. Additional fees, assessments, or
21 other charges shall not be added.

1 (b) This section shall remain in effect only until January 1, 2012,
2 and as of that date is repealed, unless a later enacted statute, that
3 is enacted before January 1, 2012, deletes or extends that date.

4 SEC. 2. Section 40207 of the Vehicle Code, as added by
5 Section 2 of Chapter 377 of the Statutes of 2007, is amended to
6 read:

7 40207. (a) The notice of delinquent parking violation shall
8 contain the information specified in subdivision (a) of Section
9 40202 or subdivision (a) of Section 40248, as applicable, and
10 Section 40203, and, additionally shall contain a notice to the
11 registered owner that, unless the registered owner pays the parking
12 penalty or contests the citation within 21 calendar days from the
13 date of issuance of the citation or 14 calendar days after the mailing
14 of the notice of delinquent parking violation or completes and files
15 an affidavit of nonliability that complies with Section 40208 or
16 40209, the renewal of the vehicle registration shall be contingent
17 upon compliance with the notice of delinquent parking violation.
18 If the registered owner, by appearance or by mail, makes payment
19 to the processing agency within 21 calendar days from the date of
20 issuance of the citation or 14 calendar days after the mailing of
21 the notice of delinquent parking violation, the parking penalty shall
22 consist solely of the amount of the original penalty. Additional
23 fees, assessments, or other charges shall not be added.

24 (b) This section shall become operative on January 1, 2012.

25 SEC. 3. Article 3.6 (commencing with Section 40245) is added
26 to Chapter 1 of Division 17 of the Vehicle Code, to read:

27
28 Article 3.6. Procedure On Photo Enforcement and Digital
29 Photographing of Parking Violations During Street Sweeping
30

31 40245. (a) The Legislature finds and declares all of the
32 following:

33 (1) Streetsweepers operating throughout our nation and the
34 world remove from streets and roads unnecessary pollutants,
35 contaminants, chemicals, trash, and debris, which provides
36 significant environmental and sanitation benefits, thereby
37 protecting the environment and contributing to the health of people
38 in communities worldwide.

39 (2) Each year, illegally parked private cars, trucks, and service
40 vehicles on local streets and roads disrupt full street sweeping of

1 as many as three parking spaces per illegally parked vehicle,
2 resulting in significant debris, grease, oil, and other pollutants
3 being needlessly washed into the stormwater drains.

4 (3) A major benefit of street sweeping, especially in more
5 urbanized areas with higher areas of paving, is that by capturing
6 pollutants before they are made soluble by rainwater, the need for
7 stormwater treatment practices, which can be very costly when
8 compared to collecting pollutants before they become soluble, may
9 be reduced.

10 (4) According to an analysis by the District of Columbia
11 Department of Public Works, an average of 10 pounds of oil and
12 grease, three pounds of nitrogen and phosphorus, and up to two
13 pounds of heavy metals are typically removed per mile swept of
14 local streets and roads through street sweeping.

15 (5) According to an August 2004 technical report on “Trash
16 Best Management Practices” submitted by the County of Los
17 Angeles Department of Public Works, street sweeping and stricter
18 enforcement of no parking regulations should “be utilized to the
19 maximum extent practicable” to help prevent trash, litter, and other
20 harmful pollutants from getting into the stormwater drain system.

21 (6) According to a July 2007 technical report titled “Trash Total
22 Maximum Daily Loads for the Los Angeles River Watershed,”
23 stormwater drain discharges are the “primary source of trash” in
24 the waterbodies of the Los Angeles River Watershed, whereby
25 unswept street litter is washed through the storm drain sewers into
26 the Los Angeles River, the Estuary, the beaches at Long Beach,
27 and the Pacific Ocean.

28 (7) In August 2007, after extensive studies, public meetings,
29 and economic benefit analysis, the Los Angeles Regional Water
30 Quality Control Board adopted a phased-in goal of “zero”
31 discharges of manmade trash in the Los Angeles River Watershed
32 by 2016, a goal that was subsequently approved by the State Water
33 Resources Control Board in April 2008 and the United States
34 Environmental Protection Agency in July 2008.

35 (8) Cities such as Chicago and Washington D.C. already utilize
36 automated parking enforcement systems mounted on their local
37 public agency-owned or local public agency-operated
38 streetsweepers to enforce existing regulations and improve
39 compliance with street-sweeping regulations, which benefits the

1 environment by helping reduce waste and pollutants from entering
2 stormwater drain systems.

3 (b) Therefore, it is the intent of the Legislature to allow local
4 public agency-owned or local public agency-operated
5 streetsweepers to utilize automated parking enforcement systems
6 ~~to serve for the purpose of digital photographing of street-sweeping~~
7 *parking violations for vehicles that are parked during the*
8 *designated hours of operation in a street-sweeping parking lane,*
9 *thus serving* the public interest by benefiting the environment,
10 improving water quality, decreasing stormwater drain runoff, and
11 helping reduce ongoing habitat deterioration.

12 40246. For the purposes of this article, the following terms
13 have the following meanings:

14 (a) “Local public agency” means a city, county, city and county,
15 district, or joint powers authority.

16 (b) “Streetsweeper” means a mechanical vehicle that cleans
17 streets and roads, utilizing a broom, conveyor belt, vacuum, or
18 regenerative-air mechanism, among other mechanisms, to loosen,
19 carry, and collect debris, dust, grease, oil, metals, and other
20 pollutants from streets and roads.

21 (c) “Automated parking enforcement system” means the
22 installation and use of equipment that takes a digital camera-based
23 photograph and is linked with a violation detection system that
24 synchronizes the taking of the photograph with the occurrence of
25 a parking infraction.

26 (d) “Street-sweeping parking lane” means the land designated
27 as a parking area on any street or road routinely cleaned by
28 streetsweepers during designated hours of operation as indicated
29 on schedule signs designated on both sides of the street or road.

30 40247. (a) A local public agency may install and operate an
31 automated parking enforcement system on local public
32 agency-owned or local public agency-operated streetsweepers for
33 the purpose of digital photographing of *street-sweeping* parking
34 violations occurring in street-sweeping parking lanes. The
35 equipment shall be angled and focused so as to capture digital
36 photographs of license plates on vehicles violating designated
37 street-sweeping regulations and shall not unnecessarily capture
38 identifying photographs of other drivers, vehicles, or pedestrians.
39 The equipment shall only capture digital photographs when the
40 automated parking enforcement system detects the occurrence of

1 a parking infraction. Notwithstanding subdivision (e) of Section
2 40248, only a local public agency may operate an automated
3 parking enforcement system.

4 (1) A citation shall be issued only for violations captured during
5 the designated hours of operation for a street-sweeping parking
6 lane.

7 (2) A citation shall not be issued, under the provisions of this
8 article, for a vehicle that is parked on the street during the
9 designated hours of operation for a street-sweeping parking lane
10 when the vehicle is parked on the street after the street has been
11 cleaned by a streetsweeper.

12 (b) At least 30 days prior to issuing notices of parking violations
13 pursuant to subdivision (a) of Section 40248, a local public agency
14 utilizing an automated parking enforcement system pursuant to
15 this article shall make a public announcement of the automated
16 parking enforcement system and shall only issue warning notices
17 during this 30-day period. This subdivision does not affect the
18 authority of a local public agency to issue notices of parking
19 violations through a manual system before, during, or after the
20 30-day warning period in this subdivision.

21 (c) A designated employee for the local public agency, who is
22 qualified by the local public agency to issue parking citations, shall
23 review digital photographs for the purpose of determining whether
24 a parking violation occurred in a street-sweeping parking lane. A
25 violation of a statute, regulation, or ordinance governing parking
26 under this code, under a federal or state statute or regulation, or
27 under an ordinance enacted by the local public agency occurring
28 in a street-sweeping parking lane observed by the designated
29 employee in the photographs is subject to a civil penalty.

30 (d) (1) Except as it may be included in court records described
31 in Section 68152 of the Government Code, or as provided in
32 paragraph (2), the digital photograph evidence may be retained
33 for up to six months from the date the information was first
34 obtained, or 60 days after final disposition of the citation,
35 whichever date is later, after which time the information shall be
36 destroyed in a manner that shall preserve the confidentiality of any
37 person included in the record or information.

38 (2) Notwithstanding Section 26202.6 of the Government Code,
39 digital photograph evidence from automated parking enforcement
40 systems that does not contain evidence of a parking violation

1 occurring in a street-sweeping parking lane shall be destroyed
2 within 15 days after the information was first obtained in a manner
3 that shall preserve the confidentiality of any person included in
4 the information.

5 (e) Notwithstanding Section 6253 of the Government Code, or
6 any other provision of law, the digital photographs made by an
7 automated parking enforcement system shall be confidential. Local
8 public agencies shall use and allow access to these photographs
9 only for the purposes authorized by this article.

10 40248. (a) A designated employee for the local public agency
11 shall issue a notice of a parking violation to the registered owner
12 of a vehicle within 15 calendar days of the date of the violation.
13 The notice of violation shall set forth the violation of a statute,
14 regulation, or ordinance governing vehicle parking under this code,
15 under a federal or state statute or regulation, or under an ordinance
16 enacted by the local public agency occurring in a street-sweeping
17 parking lane, a statement indicating that payment is required within
18 21 calendar days from the date of citation issuance, and the
19 procedure for the registered owner to deposit the parking penalty
20 or contest the citation pursuant to Section 40215. The notice of a
21 parking violation shall also set forth the date, time, and location
22 of the violation, the vehicle license number, registration expiration
23 date if visible, the color of the vehicle, and, if possible, the make
24 of the vehicle. The notice of parking violation shall include a copy
25 of the digital photograph evidence. Except as provided in paragraph
26 (1) of subdivision (d) of Section 40247, the notice of parking
27 violation, or copy of the notice, shall be considered a record kept
28 in the ordinary course of business of the local public agency and
29 shall be prima facie evidence of the facts contained in the notice.

30 (b) The notice of parking violation shall be served by depositing
31 the notice in the United States Postal Service to the registered
32 owner's last known address listed with the Department of Motor
33 Vehicles. Confidential information obtained from the Department
34 of Motor Vehicles for the administration or enforcement of this
35 article shall be held confidential, and may not be used for any other
36 purpose. Proof of mailing demonstrating that the notice of parking
37 violation was mailed to that address shall be maintained by the
38 local public agency. If the registered owner, by appearance or by
39 mail, makes payment to the processing agency or contests the
40 violation within either 21 calendar days from the date of mailing

1 of the citation, or 14 calendar days after the mailing of the notice
2 of delinquent parking violation, the parking penalty shall consist
3 solely of the amount of the original penalty.

4 (c) If, within 21 days after the notice of parking violation is
5 issued, the local public agency determines that, in the interest of
6 justice, the notice of parking violation should be canceled, the
7 local agency shall cancel the notice of parking violation pursuant
8 to subdivision (a) of Section 40215. The reason for the cancellation
9 shall be set forth in writing.

10 (d) Following an initial review by the local agency, and an
11 administrative hearing, pursuant to Section 40215, a contestant
12 may seek court review by filing an appeal pursuant to Section
13 40230.

14 (e) The local public agency may contract with a private vendor
15 for the processing of notices of parking violations and notices of
16 delinquent violations, if the local public agency maintains overall
17 control and supervision of the automated parking enforcement
18 system.

19 40249. By January 1, 2014, a local public agency that utilizes
20 an automatic parking enforcement system pursuant to this article
21 shall collect and report to the Senate and Assembly Committees
22 on Judiciary, all of the following data:

23 (a) Number of citations issued for parking violations.

24 (b) Number of violations contested, and the final disposition of
25 those violations.

26 (c) An evaluation of the overall effectiveness of the program.

27 (d) An evaluation of the privacy implications of the system,
28 including a summary of any privacy-related complaints about the
29 system.

30 40249.5. This article shall remain in effect only until January
31 1, 2015, and as of that date is repealed, unless a later enacted
32 statute, that is enacted before January 1, 2015, deletes or extends
33 that date.