

Date of Hearing: April 23, 2018

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 2363 (Friedman) – As Amended April 2, 2018

SUBJECT: Vehicles: speed laws

SUMMARY: Allows traffic surveyors to lower speed limits as low as 9 miles per hour (mph) below what the speed limit would otherwise be set at. Specifically **this bill:**

- 1) Allows traffic surveyors to take into account the potential for, and frequency of, traffic collisions resulting in death or injury when setting speed limits.
- 2) Allows the California Department of Transportation (Caltrans) or a local authority to round speed limits within 5 mph of the 85th percentile of traffic speed, based on an engineering study, instead of to the nearest 5 mph and allows for the speed limit to be reduced an additional 5 mph under certain conditions.

EXISTING LAW:

- 1) Requires Caltrans, after consultation with local agencies and public hearings, to adopt rules and regulations prescribing uniform standards and specifications for all official traffic control devices, including, but not limited to, stop signs, yield right-of-way signs, speed restriction signs, railroad warning approach signs, street name signs, lines and markings on the roadway, and stock crossing signs.
- 2) Requires an engineering and traffic survey to include, among other requirements deemed necessary by Caltrans, consideration of all of the following:
 - a) Prevailing speeds as determined by traffic engineering measurements;
 - b) Accident records; and,
 - c) Highway, traffic, and roadside conditions not readily apparent to the driver.
- 3) Permits local authorities to additionally consider all of the following when conducting an engineering and traffic survey:
 - a) Residential density, if any of the following conditions exist on the particular portion of highway and the property contiguous thereto, other than a business district:
 - i) Upon one side of the highway, within a distance of a quarter of a mile, the contiguous property fronting thereon is occupied by 13 or more separate dwelling houses or business structures;
 - ii) Upon both sides of the highway, collectively, within a distance of a quarter of a mile, the contiguous property fronting thereon is occupied by 16 or more separate dwelling houses or business structures; or,

- iii) The portion of highway is longer than one-quarter of a mile but has the ratio of separate dwelling houses or business structures to the length of the highway described in either of the above.

b) Pedestrian and bicyclist safety.

FISCAL EFFECT: Unknown

COMMENTS:

Dangers of Speed: According to the National Transportation Safety Board (NTSB), from 2005-14, crashes in which a law enforcement officer indicated a vehicle's speed was a factor resulted in 112,580 fatalities, representing 31% of all traffic fatalities. Passenger vehicles constitute 77% of speeding vehicles involved in fatal crashes.

NTSB notes that speeding increases crash risk in two ways:

- 1) It increases the likelihood of being involved in a crash; and,
- 2) It increases the severity of injuries sustained by all road users.

Setting Speed Limits: Existing law requires Caltrans, after consultation with local agencies and public hearings, to adopt rules and regulations that prescribe uniform standards and specifications for traffic control devices, including the posting of speed limits. Caltrans adopts these rules as the California Manual on Uniform Traffic Control Devices (MUTCD), which, among other things, prescribes the process for setting speed limits in this state.

In California and elsewhere, speed limits are generally set in accordance with engineering and traffic surveys, which measure prevailing vehicular speeds and establish the limit at or near the 85th percentile (*i.e.*, the speed that 15% of motorists exceed). California uses the 85th percentile to set speed limits except in cases where the limit is set in state law, such as the 25 mph limit in residence districts and school zones, or where an engineering and traffic survey shows that other safety-related factors suggest that a lower speed limit is warranted. These safety-related factors, as prescribed by law, include accident data; highway, traffic, and roadway conditions not readily apparent to the driver; residential density; and pedestrian and bicyclist safety.

In addition to the aforementioned factors listed, this bill would allow traffic surveyors to also take into consideration the potential for, and frequency of, traffic collisions resulting in death or injury. It is unclear why this factor is necessary, as they are already allowed to take into account accident records, pedestrian safety and bicyclist safety.

Caltrans rules allow speed limits to deviate from the 85th percentile in a couple of ways. First, if 85th percentile is not in an increment of 5 mph, MUTCD requires the speed limit to be rounded to the nearest 5 mph limit. So if the 85th percentile is 32 mph, the speed limit can be rounded down to 30. If the 85th percentile is 34 mph, it must be rounded up to 35 mph. In the first example, traffic surveyors are allowed to reduce the speed limit from 30 mph to 25 mph based on accident records, pedestrian and bicycle safety, and the density of the area. In the second example, traffic surveyors would be allowed to round down to 30 mph, but are prohibited from lowering the speed limit any further.

Deviations From the 85th Percentile: This bill makes two deviations from the current standard for setting speed limits. First, instead of rounding to the nearest 5 mph, this bill allows traffic surveyor's to round within 5 mph. Then, in addition to that, a traffic surveyor would be allowed to reduce the speed limit an additional 5 mph taking into account accident records, roadside conditions, residential density, pedestrian and bicyclist safety and the potential for, and frequency of, traffic collisions resulting in death or injury.

For example, consider a scenario where the 85th percentile speed was 34 mph. Under this bill, traffic surveyors could first round the speed limit down to 30 mph, and then reduce the speed limit an additional 5 mph on the basis of any of the aforementioned reasons to 25 mph. In essence, that would mean the speed limit would be reduced nearly 10 mph slower than the speed 85% of drivers feel comfortable driving.

Why the 85th Percentile: The 85th percentile has been used to calculate speed limits since the 1940s. According to NTSB, the use of the operating speed, more specifically the 85th percentile speed, is based on the assumption that the majority of drivers are:

- 1) Capable of selecting appropriate speeds according to weather conditions, traffic, road geometry, and roadside development; and,
- 2) Operate at reasonable and prudent speeds. The support for this comes from empirical research of self-reported crashes on 2- or 4 lane rural highways in the late 1950s. Research showed that drivers operating at much lower and much higher speeds than the majority of drivers were involved in a disproportionally high number of crashes.

Lowering Speed Limits Does Not Lower Speeds: The Federal Highway Administration (FHWA) has conducted research in 22 states showing that lowering speed limits has a minimal effect on reducing actual speeds. In fact, they found that lowering the speed limit by 5 mph of the 85th percentile reduced speeds by less than 2 mph.

In addition, FHWA collected crash data from 99 different sites for a 3-year before period and a two-year after period. At these sites, FHWA set lower and higher speed limits than the current 85th percentile. FHWA concluded after their study that, "Based on the best information available to date, there was no evidence to suggest that lowering or raising posted speed limits on nonlimited access roadways has an effect on crashes. Reducing the posted speed limit without utilizing other enforcement, educational and engineering measures does not appear to be an effective safety treatment."

In the most recent FHWA report entitled *Methods and Practices for Setting Speed Limits: an Informational Report*, FHWA notes that the 85th percentile may not be the safest speed, "but it is important to note that setting speed limits lower than 85th percentile speed does not encourage compliance with the posted speed limit."

How to Actually Reduce Speed: It is a generally accepted that reducing speed limits requires the three E's: education, engineering and enforcement. The Governors Highway Safety Association (GHSA), a nonprofit organization representing state and territorial highway safety offices, noted in its most recent report that evidenced-based strategies to reduce pedestrian deaths include: refuge islands, which allow pedestrians to cross two-way streets one direction at a time;

sidewalks, pedestrian overpasses/ underpasses, countdown pedestrian signals that provide ample crossing time, High-Intensity Activated crosswalk (HAWK) signals where traffic signals stop traffic midblock to allow pedestrians to cross, and new traffic signals.

It would also be helpful to make pedestrians more visible to drivers, as 75% of all pedestrian fatalities occur in the dark. Finally, as a way of slowing drivers down, GHSA recommends road diets that create space for other modes (e.g. bicycle lanes, sidewalks, turn lanes), roundabouts, and traffic calming devices such as speed humps and curb extensions.

Increasing Traffic Violators: There is one thing for certain that this bill will do - increase the number of people violating the speed limit. The author argues that setting the speed limit closer to the 50th percentile speed is not a “trap”. However by this very definition, half of all drivers would be violating the speed limit if they were to continue to operate at the normal flow of traffic.

The costs of fines and fees associated with traffic and parking citations has steadily increased over the last few decades. After adding on fees to base fines, tickets can total in the hundreds of dollars. Add-on fees for minor offenses double or quadruple the original fine, and until recently California suspended driver’s licenses for failure to pay traffic fines.

Unpaid traffic fine debt has been adding up. According to the Legislative Analyst Office, the state now has over \$10 billion in unpaid court ordered debt. The Legislature and Governor have made several efforts to collect unpaid debt and to address the negative consequences of unpaid fines. In last year’s budget, the state removed the court’s authority to notify DMV for the suspension of individual’s driver’s licenses for unpaid traffic fines. Governor Brown also signed AB 503 (Lackey), Chapter 741, Statutes of 2017, which requires a payment program to be offered to indigent individuals before agencies can use DMV to collect unpaid parking tickets.

Driving 1-15 mph over the speed limit would result in a \$238 ticket under the bail schedule. Driving 16-25 mph over the speed limit would result in a \$367 ticket. Driving 26 mph over the speed limit would result in a \$490 ticket.

By reducing speed limits as much as 9 mph, as this bill intends to do, nearly half of all drivers would be eligible for a \$238 ticket. Drivers that were previously going 6 mph higher than the average operating speed would now be eligible for a \$367 ticket.

Committee Comments: The number of people killed by speeding in the United States is alarming. Cities across the country have begun to institute Vision Zero programs to identify ways of reducing traffic fatalities to zero. While speed limits are set by the 85th percentile rule, NTSB has found that there is no strong evidence that the 85th percentile speed within a given traffic flow equates to the speed with the lower crash involvement rate for all road types.

Reducing speed should be a primary goal in this state, but reducing speed limits without enforcement, engineering and education will do nothing but increase the number of people violating the speed limit.

Therefore, this committee recommends the author amend this bill to take a more comprehensive look at traffic fatalities as whole.

Suggested Amendments: Strike the current contents of the bill and replace it with the following:

Vehicle Code Section 3095: (a) On or before April 1, 2019, the Secretary of Transportation shall establish and convene the Vision Zero Task Force.

(b) The task for shall include, but is not limited to, representatives from the Department of the California Highway Patrol, the University of California and other academic institutions, local governments, bicycle safety organizations, and road safety organizations.

(c) The task force shall develop a structured, coordinated process for early engagement of all parties to develop policies to reduce traffic fatalities to zero.

Vehicle Code Section 3096: (a) The Secretary of Transportation shall prepare and submit a report of finding based on the Vision Zero Task Force's efforts to the appropriate policy and fiscal committees of the Legislature on or Before December 1, 2020.

(b) The report shall include, but is not limited to, a detailed analysis of the following issues:

(1) The existing process for establishing speed limits, including a detailed discussion on where speed limits are allowed to deviate from the 85th percentile.

(2) Existing policies on how to reduce speeds on local streets and roads.

(3) A recommendation as to whether an alternative to the use of the 85th percentile as a method for determining speed limits should be considered, and if so, what alternatives should be looked at.

(4) Engineering recommendations on how to increase vehicular, pedestrian and bicycle safety.

(5) Additional steps that can be taken to eliminate vehicular, pedestrian, and bicycle fatalities on the road.

Vehicle Code Section 3097: This chapter shall remain in effect only until January 1, 2024, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2024, deletes or extends that date.

Previous Legislation: AB 529 (Gatto), Chapter 528, statutes of 2011, allowed, in instances where Caltrans or the local authority should round up to reach the nearest 5 mph, that Caltrans or the local authority may instead round down but then may not reduce the posted speed limit by a 5 mph increment for a safety-related factor.

SB 570 (Maldonado) of 2009, would have established a prima facie speed limit of 40 mph for any roadway where the residential density is eight residential units or more fronting the street. SB 570 passed out of the Senate Transportation and Housing Committee and was amended in the Senate Appropriations Committee with language relative to the California State Lottery.

AB 564 (Portantino) of 2009, would amend the definition of a "local street or road," under the speed trap law, for the City of Pasadena, to mean that it is either included in the latest maps submitted to FHWA or one that is not wider than 40 feet, longer than one-half mile, or more than one lane in each direction. AB 564 passed the Assembly and was amended in the Senate with language relative to the Substance Abuse Treatment Trust Fund.

AB 766 (Krekorian) of 2009, would have allowed a local city or county to retain a prima facie speed limit on any street, other than a state highway, if it makes a finding after a public hearing and determines that a higher speed limit is not appropriate and does not promote safety. AB 766 was referred to this committee but was not heard at the request of the author.

AB 2767 (Jackson), Chapter 45, Statutes of 2000, allowed local authorities to consider residential density and bicycle and pedestrian safety as additional factors in engineering and traffic surveys conducted for purposes of setting speed limits.

REGISTERED SUPPORT / OPPOSITION:**Support**

California Bicycle Coalition
California Walks
City of Los Angeles
Los Feliz Neighborhood Council
Vision Zero Network

Opposition

AAA Northern California, Nevada & Utah
Automobile Club of Southern California
California Teamsters
National Motorist Association
Safer Streets L.A.
Western State Trucking Association

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