

Date of Hearing: April 24, 2017

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 342 (Chiu) – As Amended April 6, 2017

SUBJECT: Vehicles: automated speed enforcement: five-year pilot program

SUMMARY: Establishes a five-year pilot program to give local transportation authorities in the City of San Jose and the City and County of San Francisco the authority to install automated speed enforcement (ASE) systems in the two municipalities. Specifically, **this bill:**

- 1) Makes various findings and declarations regarding development of an ASE program in the City of San Jose and the City and County of San Francisco.
- 2) Authorizes a five-year ASE pilot program, from 2019 to 2024, in San Jose and San Francisco to enforce speed limits on streets with speed limits that are 50 miles per hour (mph) or less and that have had a documented incidence of collisions resulting in fatalities or injuries as evidenced by either a three-year fatality and injury collision rate, or a three-year fatality rate, that is higher than the three-year collision rates published by the Department of Transportation (Caltrans) for comparable roadways.
- 3) Defines an “automated speed enforcement system” as a fixed or mobile radar or laser system or any other electronic device that utilizes automated equipment to detect a violation of speeding laws and is designed to obtain a clear photograph, video recording, or other visual image of a vehicle license plate and defines “automated speed violation” as a violation of a speed law detected by an ASE system operated pursuant to this article.
- 4) Specifies that San Jose may only have ASE systems deployed on 15 corridors at any time.
- 5) Specifies that ASE is not permitted on freeways during the five-year pilot program, or any potential extension of the program beyond the five-year pilot.
- 6) Permits the use of ASE in school zones – that meet the collision and fatality thresholds specified in the bill – two hours before school and two hours after school where the posted speed limit is 30 mph or higher when children are not present.
- 7) Provides that ASE systems must:
 - a) Be operated in cooperation with a law enforcement agency;
 - b) Clearly identify the presence of the fixed or mobile ASE system with signs stating “Photo Enforced,” along with the posted speed limit. The signs must be visible to traffic and posted at all locations, as determined by Caltrans and the local California Traffic Control Devices Committee;
 - c) Identify vehicles containing a mobile ASE system with distinctive markings, including information that the system is being operated for “Photo Enforcement” purposes, identify

the streets or portions of streets that have been approved for ASE, and post the locations and hours of enforcement on the municipality's Internet website.

- d) Use properly trained peace officers or designated municipal employees, as specified, to operate the ASE and make determinations on when notices of violation should be issued. Requires training and proof of successful completion of peace officer and municipal training to be retained by the pilot cities, as specified.
 - e) Ensure regular inspection and certification of the ASE system to ensure proper calibration; conduct an annual inspection by independent calibration laboratory; and document the inspection, operation, and calibration of the ASE system.
 - f) Conduct an engineering and traffic survey, as specified, and use fixed and mobile ASE systems that provide real-time notification when violations are detected.
- 8) Requires the pilot cities to meet several consumer protection and privacy conditions, including:
- a) Conduct a public information campaign for 30 days before ASE deployment or before taking a public vote on deployment.
 - b) Issue warning notices during the first 90 days of ASE enforcement in the pilot city.
 - c) Adopt an ASE System Use Policy and an ASE System Impact Report.
 - d) Include a clear photograph, video recording, or other visual image of the license plate and rear of the vehicle only, a citation of the law violated, the camera location, and the date and time when the violation occurred. Notices of violation must exclude images of the rear window area of the vehicle.
 - e) Keep ASE data and records confidential, except as required by the Public Records Act. The pilot cities are permitted to retain ASE data and evidence for 60 days and ASE administrative records for 120 days following final disposition of a violation, but are required to destroy any ASE data within five days if the data shows no evidence of a speeding violation.
 - f) Give the registered owner of the vehicle or an individual identified by the registered owner as the driver of the vehicle at the time of the alleged violation the right to review the photographic, video, or visual evidence of the alleged violation.
 - g) Require information collected and maintained using an ASE system to be used only to administer an ASE program and prohibits disclosure to any other person, including a state or federal agency, except as required by law, court order or subpoena.
 - h) Meet vendor contracting requirements, as specified, including a requirement that any ASE data collected is confidential and may not be shared, repurposed, or monetized for purposes other than ASE enforcement.
 - i) Issue violations only for violation of speeding 10 mph or more over the posted speed limit, that carry a civil penalty of up to \$100, cannot be used to suspend or revoke a

driver's license, and cannot be used to assess a point against the driver. However, the Department of Motor Vehicles (DMV) can refuse to renew a vehicle registration until unpaid violations are paid in full, as specified.

- j) Issue no more than one notice of violation for a specific vehicle within a given 24-hour period; send the notice of violation within 15 days to the registered owner of the vehicle; and provide an appeals process, as specified, including a diversion program for low-income violators, as specified.
- k) Use revenues from the ASE program to recover program costs and improve roadway traffic safety, including traditional law enforcement activities and programs.
- l) Submit an ASE System Report to the Legislature after the fifth and final year of the pilot.
- m) Requires the pilot cities to reduce ticket fines and penalties by 80% for people with household incomes less than 125% of the Federal Poverty Level and for people who receive CalFresh benefits, Supplemental Security Income (SSI), or Medi-Cal benefits

EXISTING LAW:

- 1) Establishes a "basic speed law" that prohibits a person from driving a vehicle at a speed greater than is reasonable or prudent given the weather, visibility, traffic, highway conditions, and in no event at a speed that endangers the safety of persons or property.
- 2) Authorizes the use of automated traffic enforcement systems (i.e., red light cameras) at railroad crossings and intersections to record violations of unlawful grade crossings and running of red lights.
- 3) Requires a peace officer or "qualified employee" of a law enforcement agency to review the photograph taken by an automated traffic enforcement system and issue a citation, as appropriate.
- 4) Conditions the use of red light cameras on several requirements and procedures, including the following:
 - a) Only a governmental agency in cooperation with a law enforcement agency may operate a system.
 - b) Intersections equipped with the enforcement systems must be identified by signs visible to traffic in all directions or by signs posted at all major entrances to the participating city.
 - c) The city council or county board of supervisors must conduct a public hearing on the proposed use of an automated enforcement system.
 - d) Use of the system must be preceded by public notice by the local jurisdiction at least 30 days in advance, and only warning notices may be issued to violators during the first 30 days of the system's operation, after which citations may be issued.

- e) All photographic records are confidential and shall be made available only to the affected governmental agencies for enforcement purposes.
- f) Any driver alleged to be a violator of the red light provisions or the vehicle's registered owner is permitted to review the photographic evidence of the alleged violation.
- g) Citations must be delivered to the driver within 15 days of the alleged violations, with a certificate of mailing obtained as evidence of service, and must include specified information, including how, when, and where the citation may be challenged.

FISCAL EFFECT: Unknown

COMMENTS: According to the author, despite the fact that San Jose and San Francisco have relatively good traffic safety records, too many people are losing their lives or suffering life-changing injuries in traffic collisions due primarily to unsafe speeds.

In an effort to improve safety, both San Jose and San Francisco have implemented "Vision Zero" traffic safety initiatives. In brief, Vision Zero is a traffic safety philosophy that rejects the notion that traffic crashes are simply "accidents," but instead preventable incidents that can and must be systematically addressed by building better and safer streets, educating the public on traffic safety, enforcing the most dangerous traffic violations, and adopting other policy changes in order to eliminate traffic deaths and reduce the number of severe injury and fatality collisions. Included in both cities' Vision Zero action strategies is pursuit of legislation to advance ASE; hence AB 342. This bill will allow local transportation authorities in San Jose and San Francisco the authority to install ASE systems over a five-year pilot period, under specific terms and conditions.

California first authorized the use of automated enforcement systems to improve safety at rail crossings with the passage of SB 1802 (Rosenthal), Chapter 1216, Statutes of 1994. Two years later, SB 833 (Kopp), Chapter 922, Statutes of 1995, authorized a three-year demonstration to test the use and effectiveness of similar systems in reducing the incidence of drivers running red lights at roadway intersections and in identifying the drivers committing such violations and the vehicles involved. The installation of these systems was considered justified primarily because red light running is considered a serious traffic problem resulting in deadly "T-bone" intersection collisions. After reviewing the operations and effectiveness of the pilot program, the Legislature enacted SB 1136 (Kopp), Chapter 54, Statutes of 1998, that indefinitely authorize the use of red light cameras at intersections.

Since being widely deployed in California, the use of red light cameras has been controversial, at best. Proponents point to the benefits of improved safety provided by red light cameras while opponents complain that the systems are operated less to improve safety and more to generate revenue. This complaint is exacerbated by the fact that many of the violations (typically amounting to \$500 or more per violation) being cited include "inadvertent" violations such as stopping just past the limit line, or performing a "rolling" right turn. Opponents also point out that many jurisdictions began removing red light cameras when they became too costly to operate—an action that arguably undermined the argument that they were necessary to improve safety. Despite the fact that many bills have been introduced and enacted to ensure red light camera systems are operated fairly, the debate over their merits and shortcomings continues to this day.

The use of ASE systems, as proposed in this bill, brings forth many of the same arguments that continue to surround red-light cameras. Proponents of the bill, on one hand tout improved safety, and opponents, on the other hand, question the extent to which benefits will actually be realized, and also raise concerns that the systems will be used by jurisdictions primarily to generate revenue.

To illustrate this dichotomy, the author suggests ASE systems are necessary to address compelling accident statistics, such as: San Francisco experiences 30 fatalities and over 200 severe injuries due to collisions; in San Jose, more than 40 people have been killed and approximately 150 people have been injuries due to collisions. The author points to unsafe speed as the single highest factor in these collisions for both cities.

Opponents, however, refute this assertion. Using data from San Francisco's *Unsafe Speed Study Fact Sheet*, dated September 23, 2015, and data from the California Highway Patrol's (CHP's) Statewide Integrated Traffic Reporting System (SWITRS) database, they suggest that the primary cause of these collisions is not, in fact, speed but failure to yield to a pedestrian in a crosswalk (12%), followed by red light violations and undetermined causes (each at 8%). Opponents note that traveling too fast for conditions was the cause in only 7.5% of serious injury and fatal traffic collisions while exceeding the speed limit was identified in 4.5% of collisions. Opponents conclude that, since ASE systems would only enforce speed limits (not travelling too fast for conditions), the installation of these systems will not provide widespread benefits to pedestrians and bicyclists as purported. Opponents further argue that factors that also contribute to collisions that seriously injure or kill pedestrians and bicyclists, such as driving under the influence, unsafe lane changes, failure to yield to a pedestrian, jay walking, unsafe U-turns, etc., that would otherwise be cited by an officer, would go undetected by ASE systems.

In the previous policy committee hearing, this bill raised questions of equity. Specifically, that ASE would disproportionately would impact individuals who could least afford citations. The author points out that the issue of equity has been addressed in the bill by making the violation a civil penalty of \$100 per violation for exceeding the posted speed limit by 10 mph and that the citation cannot be used to suspend or revoke a driver's license or to assess a point against the driver. The author does note, however, the DMV can refuse to renew a vehicle registration until unpaid violations are paid in full. The author also points out that in a further effort to address equity, fines and penalties would be reduced by 80% for people with household incomes less than 125% of the Federal Poverty Level and for people who receive CalFresh benefits, Supplemental Security Income (SSI), or Medi-Cal benefits. Opponents of this bill, however, assert that assessing violations as civil penalties would make it difficult for individuals cited using the ASE system to defend themselves and that, for wealthy drivers who can easily afford to pay multiple fines, the system does not provide a sufficient deterrent. Meanwhile, those of lesser means, especially those hovering just above the poverty line, could accumulate citations and end up being unable to register their vehicles which, ultimately, could affect their ability hold a job which is key to paying off their debt.

Writing in support of this bill, the bill's co-sponsor, Honorable Ed Lee, Mayor of San Francisco, writes that unsafe speed is the leading factor in collisions that result in serious injury and death in San Francisco. He notes that ASE systems have been proven repeatedly to reduce speeding and save lives and that of the 142 American cities that have installed cameras, those municipalities have experienced reductions in traffic deaths, excessive speeding, citations issued, and, most

significantly, a reduction in crashes resulting in serious injury or death. Mayor Lee notes that ASE, used in conjunction with redesigning streets to be safe in the first place, conducting traditional police enforcement, and targeted education, serves as a critical tool to reduce speeding and save lives. He notes that allowing San Jose and San Francisco to implement a 5-year pilot program will allow for testing of the system and help both cities meet their Vision Zero goals to end traffic deaths and serious injuries without delay.

Writing in opposition, the California Association of Highway Patrolmen (CAHP) and the Peace Officers Research Association of California (PORAC) point out that the ASE is a "robotic system" of issuing tickets to speeding cars where the citation is received by the owner of the vehicle, not the driver, weeks after the violation occurs. CAHP and PORAC note that the citations issued by ASE systems are issued without regard to time of day, traffic conditions, or whether or not the driver is under the influence of drugs and/or alcohol, or driving while distracted. They note that these factors are important ones that would be taken into account by an officer issuing a citation which, in the cases of driver impairment, the driver would be removed from the road rather than allowed to continue driving. These organizations note that officers issuing citations are able to utilize discretion but, at the very least when someone is pulled over and spoken to, the stop has the desired effect influencing driver behavior.

Committee concerns:

- 1) The author states that 70% of fatal and severe collisions are occurring on just a handful of streets and roads in San Francisco and that 50% of fatal collisions occur on just 3% of the streets in San Jose and that these collisions are predominantly the result of vehicles exceeding the speed limit. CHP's SWITRS data, however, appears to indicate that in many cases fatal and injury collisions involving pedestrians and bicyclists involve failure to yield to a pedestrian in a crosswalk and red light running, and not excessive speed.
- 2) While clearly there are concerns with respect to collisions involving pedestrians and bicyclists in both San Jose and San Francisco on particular streets and roads, it is not clear what steps, if any, these cities have taken to remedy unsafe conditions. To illustrate, it is well documented that engineering, education, and enforcement (the three "E's") are actions that need to be taken to help reduce speeds, and therefore collisions on roadways. In fact, the Vision Zero two-year strategies each outline the three "Es" as important collision reduction approaches. Recommending the use of ASE systems in advance of adequately adding traffic calming features to roadways to slow traffic; adding informational signage with respect to driver speed or posted speed limits; and enhancing enforcement in targeted areas amounts to "placing the cart before the horse."
- 3) Despite perhaps laudable intentions, ASE systems installed in other jurisdictions have raised millions in revenues for jurisdictions that install them, leaving these applications vulnerable to claims that the real intent behind ASE applications is revenue generation. For example, in the District of Columbia, reports indicate that ASE systems issued 520,000 citations producing \$55.4 million in revenues in 2015. In Maryland, where ASE systems are also in use, reports indicate that one county in Maryland reported generating \$16.6 million from fines issued by ASE systems. While the revenues collected by other ASE systems around the country do not necessarily mean that similar revenues will be collected in San Jose and San Francisco, it does raise the question of whether or not the ASE systems would produce similar results.

- 4) This bill would create a situation where the same violation (speeding) is charged in two different ways depending on whether the driver is cited using an ASE system or by an officer. If cited by a speed camera, the citation would be a civil infraction and not carry with it the same penalties including having the citation show up on the driver's driving record. While this purportedly serves to minimize the impact on low-income individuals, it creates somewhat of a "double standard" with respect the violation.

Double-referral: This bill passed out of the Assembly Privacy and Consumer Protection Committee on April 18, 2017, with a 6-4 vote.

Related legislation: AB 390 (Santiago), would authorize pedestrians to enter a crosswalk when the countdown symbol is displayed if there is sufficient time left on the countdown for the pedestrian to reasonably complete the crossing safely. AB 390 is set to be heard by this committee on May 8, 2017.

AB 756 (Ting), would establish a prima facie speed limit of 15 miles per hour (mph) on the majority of roadways in San Francisco's Golden Gate Park. AB 756 is set to be heard by this committee on April 24, 2017.

Previous legislation: SB 1325 (Kuehl) of 2008 would have authorized the City of Beverly Hills to deploy an ASE system. SB 1325 failed passage in the Senate Transportation and Housing Committee.

SB 1300 (Kuehl) of 2006 was similar to SB 1325 (Kuehl) of 2008. SB 1300 failed passage in the Senate Transportation and Housing Committee.

SB 466 (Kuehl) of 2005 was similar to SB 1325 (Kuehl) of 2008. SB 466 failed passage in the Senate Transportation and Housing Committee.

AB 1022 (Oropeza), Chapter 511, Statutes of 2003, refined the red light camera provisions after a number of legal challenges arose concerning the operation of the automated systems. These changes clarified responsibility for operation and maintenance of the system by local authorities and private contractors, the involvement of law enforcement personnel in citation issuance, restrictions on compensation to vendors, and the required consideration of alternative methods of enforcement.

SB 1136 (Kopp), Chapter 54, Statutes of 1998, authorized the use of automated enforcement systems at red lights indefinitely.

SB 833 (Kopp), Chapter 922, Statutes of 1995, authorized a three-year demonstration period to test the use and effectiveness of such cameras to reduce the incidence of drivers running red lights at intersections.

SB 1802 (Rosenthal), Chapter 1216, Statutes of 1994, authorized the use of red light cameras to record violations occurring at rail crossing signals and gates.

REGISTERED SUPPORT / OPPOSITION:**Support**

San Francisco Mayor Edwin M. Lee (Co-Sponsor)
San Jose Mayor Sam Liccardo (Co-Sponsor)
Alliance for Retired Americans
American Association of Retired Persons
Association of California Insurance Companies
California Alliance for Retired Americans
California Bicycle Coalition
California Police Chiefs Association
California Walks
CC Puede
City of Los Angeles
Duboce Triangle Neighborhood Association
FDR Dems
Golden Gate Bridge, Highway and Transportation District
Greater Rincon Hill Community Benefit District
Independent Living Resource Center San Francisco
Livable City
Los Angeles Walks
Lower Polk Community Benefit District
Metropolitan Transportation Commission
Portola Neighborhood Association
Safe Routes to School National Partnership
San Francisco Bay Area Families for Safe Streets
San Francisco Bicycle Coalition
San Francisco County Transportation Authority
San Francisco Health Improvement Partnership
San Francisco Municipal Transportation Agency
San Jose City Council
Santa Clara Valley Transportation Authority
Senior & Disability Action
sf.citi
Shape Up San Francisco Coalition
Silicon Valley Bicycle Coalition
Silicon Valley Independent Living Center
South Beach / Rincon / Mission Bay Neighborhood Association
SPUR
Tenants and Owners Development Corporation
The Friends of Monterey Boulevard
TransForm
UCSF Department of Surgery at Zuckerberg San Francisco General Hospital
Walk San Francisco

Opposition

AAA of Northern California, Nevada and Utah

Automobile Club of Southern California
Association for Los Angeles Deputy Sheriffs
Association of Deputy District Attorneys
California Association of Code Enforcement Officers
California Attorneys for Criminal Justice
California Civil Liberties Advocacy
California College and University Police Chiefs Association
California Association of Highway Patrolmen
California Narcotic Officers Association
East Area Progressive Democrats
Los Angeles County Professional Peace Officers Association
Los Angeles Police Protective League
National Motorists Association
Peace Officers Research Association of California (PORAC)
Riverside Sheriffs Association
Safer Streets L.A.
San Bernardino County Sheriff's Employees' Benefit Association
Western Center on Law & Poverty
Western States Trucking Association
19 private citizens

Analysis Prepared by: Victoria Alvarez / TRANS. /