

Date of Hearing: April 26, 2021

ASSEMBLY COMMITTEE ON TRANSPORTATION

Laura Friedman, Chair

AB 1238 (Ting) – As Amended April 12, 2021

SUBJECT: Pedestrian access

SUMMARY: Repeals provisions of law prohibiting pedestrians from entering a roadway and specifies that pedestrians shall not be subject to a fine or criminal penalty for crossing or entering a roadway when no cars are present. Specifically, **this bill:**

- 1) Repeals the provision of law specifying that a pedestrian shall not enter a roadway when they are facing a steady circular yellow or a yellow arrow signal.
- 2) Repeals the requirement for pedestrians to follow the instructions of a traffic signal.
- 3) Repeals the requirement for pedestrians to cross the roadway at any plate except a crosswalk between adjacent intersections controlled by a traffic control signal device.
- 4) Repeals the requirement that a pedestrians must walk on the left hand edge of a roadway outside of a business or residence district.
- 5) Repeals the requirement authorizing local authorities from adopting ordinances prohibiting pedestrians from crossing roadways other than crosswalks.
- 6) States that an immediate hazard exists if the approaching vehicle is so near or is approaching so fast that a reasonably careful person would realize that there is a danger of collision.

EXISTING LAW:

- 1) Requires pedestrians to yield the right-of-way to all vehicles on a roadway so as to not constitute an immediate hazard.
- 2) Requires drivers of a vehicle to yield the right-of-way to a pedestrians crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection.
- 3) Prohibits a pedestrian from suddenly leaving a curb or other place of safety and walk or run into the path of a vehicle that is so close as to constitute an immediate hazard.
- 4) Prohibits a pedestrian from unnecessarily stopping or delaying traffic while in a marked or unmarked crosswalk.
- 5) Requires pedestrians to not enter a roadway when they are facing a steady circular yellow or a yellow arrow signal.
- 6) Requires a pedestrian to follow the instructions of a traffic signal.

- 7) Requires a pedestrian to walk on the left hand edge of a roadway when outside of a business or residence district.
- 8) Authorizes local authorities to adopt ordinances prohibiting pedestrians from crossing roadways at locations other than crosswalks.
- 9) Provides that any of the above violations are an infraction.

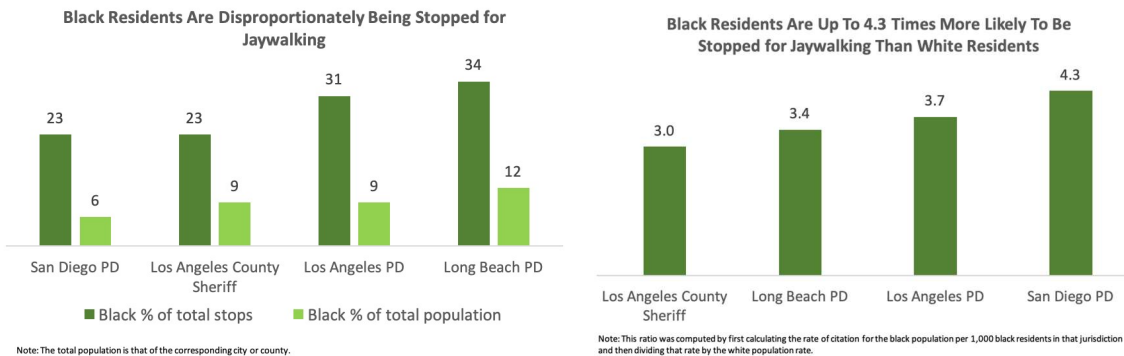
FISCAL EFFECT: Unknown

COMMENTS:

On September 23, 2020, Kurt Andras Reinhold, an African American father of two, crossed the street for the last time in his life. He was fatally shot by San Clemente Police as they subdued him. He was stopped for jaywalking.

In 2016, the City of Sacramento issued 233 tickets for jaywalking and of these roughly half or 111 were issued to African Americans when they only make up 15% of the city’s population.

Similar statistics can be seen across the state. AB 593 (Weber) Chapter 466, Statutes of 2015, enacted the Racial and Identity and Profiling Act (RIPA) of 2015, which requires local agencies to annually report data to the Attorney General on all stops conducted by peace officers. Data from that report shows that African Americans are disproportionately stopped by law enforcement, especially for jaywalking, as seen below:



Before and during the automobile’s rise, streets were public spaces shared by pedestrians, cars and horses. Rising pedestrian deaths in the 1910s and 1920s sparked a backlash against the automobile. Petitions across the country called for all cars to have a speed governor of 25 miles per hour (mph). The rules of the road at the time were limited, and oftentimes judges determined that all traffic collisions should result in a manslaughter charge.

Jaywalking, a term used for crossing the street unlawfully, first became of a crime when Kansas City passed the first ordinance requiring pedestrians to cross streets at crosswalks. In the 1920s, Secretary of Commerce and future President Herbert Hoover convened a serious of meetings to create a model traffic law that could be used by cities across the country. The Model Municipal Traffic Ordinance became the model for vehicle codes across the country, and was based on traffic laws set in Los Angeles at the time, which had enacted strict pedestrian laws on streets.

These meetings were heavily influenced by auto industry groups seeking to take the streets away from pedestrians and give them to cars.

A heavy campaign began to shame individuals who crossed the street outside of a sidewalk. Entering a street in unspecified locations became a crime. Even the term “jaywalking” was meant as an insult. The term “jaywalking” stems from the etymology of the word “jay,” which at the time was a pejorative that meant “rube” or “hick.” Today the term jaywalking common place and is used by the Judicial Council in the Uniform Bail and Penalty Schedule to describe the violations this bill seeks to eliminate.

Relegating pedestrians to the sidewalks and crosswalks have not eliminated pedestrian fatalities. According to the Governors Highway Safety Association the number of pedestrian fatalities in the United States has grown sharply. Between 2009 and 2018, pedestrian fatalities increased 53%. This is during a time when all other traffic-related deaths increased by 2%. In 2018, 17% of all traffic fatalities were pedestrians, compared to 12% in 2009.

Existing law makes it \$197 ticket for pedestrians to cross the street in manners not proscribed by law. The cost 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 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.

According to the Judicial Council, there is a total outstanding uncollected fine debt of \$8.6 billion as of the 2019-2020 fiscal year. The Legislature and Governor have made several efforts to collect unpaid debt and to address the negative consequences of unpaid fines. In the 2017 Budget Act, the state removed the court’s authority to notify the DMV of the suspension of individuals’ driver’s licenses for unpaid traffic fines. The 2018 Budget Act created a pilot program that allows a pilot court to issue an ability-to-pay determination prior to a court hearing date. This determination could result in an individual either completing community service in lieu of the total fine amount, or suspend the total amount due in whole or in part. 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.

Safe Routes Partnership California, writing in support of this bill, argues “As an organization committed to making walking and biking easier for children of all ethnic and socioeconomic backgrounds, the Safe Routes Partnership understands that jaywalking laws, though enacted in the name of protecting the safety of pedestrians, actually discourage walking as a mode of transportation and do not lead to any safer conditions or fewer collisions for people walking or using mobility devices. Jaywalking laws do more than turn an ordinary and logical behavior into a crime; they also create opportunities for police to racially profile. Our state has a long history of over-policing, criminalization, and incarceration that imposes disparate impacts on Black Californians.

Mid-block pedestrian crossing (i.e. ‘jaywalking’) is a commonsense, everyday behavior that shouldn’t lead to a confrontation with police. Now is the time for California to address the criminalization of harmless pedestrian actions across California and answer the demand for racial justice by repealing unjust jaywalking laws.”

Previous Legislation:

AB 390 (Santiago), Chapter 402, Statutes of 2017, authorizes pedestrians to enter a crosswalk when the countdown symbol is displayed provided the crossing is completed before the countdown ends.

REGISTERED SUPPORT / OPPOSITION:

Support

>

Opposition

>

Analysis Prepared by: David Sforza / TRANS. / (916) 319-2093