

Date of Hearing: April 26, 2021

ASSEMBLY COMMITTEE ON TRANSPORTATION

Laura Friedman, Chair

AB 1337 (Lee) – As Amended April 7, 2021

SUBJECT: Transportation: transit district policing responsibilities

SUMMARY: Extends the authority of specified transit district entities to issue prohibition orders to include the property, facilities, and vehicles upon which it owes policing responsibilities to a local government, and expands current law to make entering or remaining on those properties without permission a misdemeanor. Specifically, **this bill:**

- 1) Provides that a person who enters or remains on any property, facilities, or vehicles on which the applicable transit entity owes policing responsibilities to a local government pursuant to an operations and maintenance agreement or similar interagency agreement without permission, or whose entry, presence, or conduct on that property interferes with, interrupts, or hinders the safe and efficient operation of the transit-related facility, is guilty of a misdemeanor. Extends the transit entity's authority to issue prohibitions and the scope of the prohibition orders to include these properties.
- 2) Authorizes a transit district's ordinance to be enforced outside of the transit district's jurisdiction only where the local jurisdiction has adopted the ordinance by reference as authorized by the local jurisdictions' governing body.

EXISTING LAW:

- 1) Provides that any person who enters or remains upon the property of any railroad without the permission of the owner of the land, the owner's agent, or the person in lawful possession and whose entry, presence, or conduct upon the property interferes with, interrupts, or hinders, or which, if allowed to continue, would interfere with, interrupt, or hinder the safe and efficient operation of any locomotive, railway car, or train is guilty of a misdemeanor.
- 2) Defines "property of any railroad" as any land owned, leased, or possessed by a railroad upon which is placed a railroad track and the land immediately adjacent thereto, to the distance of 20 feet on either side of the track, which that is owned, leased, or possessed by a railroad.
- 3) Provides that any person who enters or remains upon any transit-related property without permission or whose entry, presence, or conduct upon the property interferes with, interrupts, or hinders the safe and efficient operation of the transit-related facility is guilty of a misdemeanor.
- 4) Defines "transit-related property" as any land, facilities, or vehicles owned, leased, or possessed by a county transportation commission, transportation authority, or transit district, as specified, that are used to provide public transportation by rail or passenger bus or are directly related to that use.

- 5) Specifies that these provisions do not prohibit picketing in the immediately adjacent area of the property of any railroad or transit-related property or any lawful activity by which the public is informed of the existence of an alleged labor dispute.
- 6) Authorizes Sacramento Regional Transit District (SacRT), the Fresno Area Express, Los Angeles County Metropolitan Transportation Authority (Metro), or the San Francisco Bay Area Rapid Transit District (BART) to issue a prohibition order to any person who, on at least three separate occasions within a period of 90 consecutive days, is cited for an infraction committed in or on a vehicle, bus stop, or light rail station of the transit district for any of the following acts:
 - a) Interfering with the operator or operation of a transit vehicle, or impeding the safe boarding or alighting of passengers;
 - b) Committing any act or engaging in any behavior that may, with reasonable foreseeability, cause harm or injury to any person or property;
 - c) Willfully disturbing others on or in a transit facility or vehicle by engaging in boisterous or unruly behavior;
 - d) Carrying an explosive, acid, or flammable liquid in a public transit facility or vehicle;
 - e) Urinating or defecating in a transit facility or vehicle, except in a lavatory;
 - f) Willfully blocking the free movement of another person in a transit facility or vehicle; or,
 - g) Defacing with graffiti the interior or exterior of the facilities or vehicles of a public transportation system.
- 7) Authorizes a prohibition order to be issued to a person arrested or convicted for any misdemeanor or felony committed in or on a vehicle, bus stop, or light rail station of the transit district, for acts involving violence, threats of violence, lewd or lascivious behavior, or possession for sale or sale of a controlled substance.
- 8) Authorizes a prohibition order to be issued to a person convicted of loitering with the intent to commit specified drug offenses or loitering with intent to commit prostitution.
- 9) Prohibits a person subject to a prohibition order from entering the property, facilities, or vehicles of the transit district for a period of time deemed appropriate by the transit district, provided that the duration of the prohibition order does not exceed the following specified time limits:
 - a) 30 days for a first order, 90 days for a second order within one year, and 180 days for a third order within one year related to infractions; or,
 - b) 30 days if issued pursuant to an arrest for a misdemeanor or felony offense. Upon conviction for the offense, the order may be extended to a total of 180 days for a misdemeanor and one year for a felony.

- 10) Specifies prohibition processes, notification procedures, and hearing and appeal procedures.
- 11) Requires the transit district to establish an advisory committee and to ensure that personnel charged with issuance and enforcement of prohibition orders receive training as emphasized and as recommended by the advisory committee. Tasks the advisory committee with responsibilities, as specified. Authorizes existing advisory committees to be used if appropriate.
- 12) Defines “transit district” to mean the Sacramento Regional Transit District, the Los Angeles County Metropolitan Transportation Authority, the Fresno Area Express, or the San Francisco Bay Area Rapid Transit District.
- 13) Establishes categories of peace officers with varying powers and authority to make arrests and carry firearms.
- 14) Provides that a member of the San Francisco Bay Area Rapid Transit District Police Department is a peace officer whose authority extends to any place in the state for the purpose of enforcing the law in or about the properties owned, operated, and administered by the San Francisco Bay Area Rapid Transit District, when performing necessary duties with respect to patrons, employees, and properties of the district, or when making an arrest if there is immediate danger to a person or property or of an escape of the perpetrator of an offense.
- 15) Makes it an infraction for a person to do any of the following with respect to the property, facilities, or vehicles of a transit district:
 - a) Operate, interfere with, enter into, or climb on or in the property, facilities, or vehicles of the transit district without permission;
 - b) Interfere with the operator or operation of a transit vehicle, or impede the safe boarding or alighting of passengers;
 - c) Extend any portion of the body through a window opening of a transit vehicle in a manner that may cause harm or injury;
 - d) Throw an object from a transit vehicle;
 - e) Commit an act or engage in a behavior that may, with reasonable foreseeability, cause harm or injury to any person or property;
 - f) Violate a notice, prohibition, instruction, or direction on a sign that is intended to provide for the safety and security of transit passengers, or the safe and secure operation of the transit system;
 - g) Knowingly give false information to a district employee, or contracted security officer, engaged in the enforcement of a district ordinance or a state law, or otherwise obstruct the issuance of a citation for the violation of a district ordinance or a state law, or,

- h) Violate any of the conditions established by a transit district ordinance under which a passenger may board a transit vehicle with a bicycle and where that bicycle may be stowed on the transit vehicle.

FISCAL EFFECT: Unknown

COMMENTS: AB 716 (Dickinson) Chapter 534, Statutes of 2011 authorized the creation of a three-year pilot program to allow BART to issue prohibition orders denying passengers committing certain illegal behaviors entry onto transit vehicles and facilities. In 2013, BART initiated its AB 716 program, which also required BART to provide the Legislature with annual reports on the program. The program was made permanent with the passage of AB 730 (Quirk) Chapter 46, statutes of 2017.

This bill will extend the authority for BART to issue prohibition orders to include the property, facilities, and vehicles upon which it owes policing responsibilities to a local government, and expands current law to make entering or remaining on those properties without permission a misdemeanor.

According to the author, “For the BART extension into Santa Clara County, BART Police patrol areas under the District’s jurisdiction such as train cars, station platforms, and concourse areas. Valley Transportation Authority has opted to contract with the Santa Clara County Sheriff’s Department and the City of San Jose to provide law enforcement services in areas under their jurisdiction such as parking garages, intermodal areas, and station plazas. The County Sheriff is the contracted law enforcement agency for the Milpitas station and the City of San Jose as well as the Sheriff’s Department are jointly contracted for the Berryessa/North San Jose station.

Given VTA ownership of the property, AB 1337 will clarify, BART Police have express authority to issue prohibition orders at the Milpitas and Berryessa/North San Jose stations. Code sections related to BART’s general policing authority (Penal Code) and the prohibition order program (Public Utilities Code) are not uniform and may not fully account for the unique operations agreement between BART and VTA.”

According to BART’s annual report, as required by AB 716, the number of prohibition orders issued in 2019 was 371 compared to 376 in 2018. Battery and threats to BART patrons continued to be a noticeable problem in 2019, accounting for 28% of prohibition orders issued. To address this, BART is implementing high visibility foot patrols and commanders for specific zones. The report notes a need or continued outreach efforts involving mental health and homelessness. BART created the Crisis Intervention Training (CIT) officers and police personnel to offer services at the scene by referring individuals in crisis to appropriate resources through local city or county organizations. In 2019, less than 3% of individuals issued prohibition orders violated the order. In 2018, seven persons violated the prohibition order for a total of 12 arrests.

BART, the sponsor of this bill, argues, “For the Santa Clara County extension, BART has an operating agreement in perpetuity with the Valley Transportation Authority and does not own the land. AB 1337 will only extend the current authority to the trains, platforms and ticketing areas of the new Milpitas and Berryessa/North San Jose stations. We believe this is a measure that ensures consistent application of BART policies throughout the entirety of the system.”

Previous legislation:

AB 730 (Quirk) Chapter 46, Statutes of 2017, repealed the sunset on the law that allows BART to issue prohibition orders to passengers committing certain illegal behaviors, making BART's authority to do so permanent.

AB 468 (Santiago) Chapter 192, Statutes of 2017, added the Los Angeles County Metropolitan Transportation Authority (Metro) to the transit districts authorized to issue prohibition orders to passengers committing certain illegal behaviors.

SB 1154 (Hancock) Chapter 559, Statutes of 2014, in part, extended the sunset on the law that allows BART to issue prohibition orders denying passengers committing certain illegal behaviors entry onto transit vehicles and facilities, until January 1, 2018.

AB 716 (Dickinson) Chapter 534, Statutes of 2011, in part, authorized the San Francisco Bay Area Rapid Transit District, until January 1, 2015, to issue prohibition orders denying passengers committing certain illegal behaviors entry onto transit vehicles and facilities. AB 716 also removed the sunset provisions for Sacramento Regional Transit District and the Fresno Area Express, making their related authority permanent.

SB 1561 (Steinberg) Chapter 528, Statutes of 2008, authorized the Sacramento Regional Transit District and the Fresno Area Express, until January 1, 2012, to issue prohibition orders denying passengers committing certain illegal behaviors entry onto transit vehicles and facilities. SB 1561 also described the kinds of behaviors according to their potential severity and prescribes the progressive penalties based upon the severity and frequency of violations.

REGISTERED SUPPORT / OPPOSITION:**Support**

Bay Area Rapid Transit District (Sponsor)

Opposition

None on file

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