

Date of Hearing: June 29, 2015

ASSEMBLY COMMITTEE ON TRANSPORTATION
Jim Frazier, Chair
SB 413 (Wieckowski) – As Amended June 22, 2015

SENATE VOTE: 40-0

SUBJECT: Public transit: prohibited conduct.

SUMMARY: Makes changes to statutes governing prohibited conduct on public transit properties. Specifically, **this bill:**

- 1) Clarifies that playing sound equipment on or in a transit facility or vehicle or failing to comply with the warning of a transit official regarding disturbing others with loud noise is punishable as an infraction.
- 2) Makes failing to yield seating reserved for elderly or disabled persons on public transit property punishable as an infraction provided that the governing board of the public transportation agency enacts an ordinance following a public hearing on the issue.
- 3) Allows transit operators to levy administrative penalties against minors who have committed certain violations on their systems.
- 4) Clarifies what constitutes rail transit property.
- 5) Makes related, clarifying amendments.

EXISTING LAW:

- 1) Makes it an infraction, punishable by a fine of \$250 and 48 hours of community service, for adults who engage in the following activities in a transit system facility or vehicle:
 - a) Eating, drinking, or smoking in areas where those activities are prohibited;
 - b) Disturbing other people with loud or unreasonable noise;
 - c) Expectoring;
 - d) Skateboarding, roller blading, bicycle riding, or operating a motorized scooter or similar device, as specified; and,
 - e) Selling or peddling goods, merchandise, property, or services as prohibited by the public transportation system.
- 2) Allows transit operators to levy administrative penalties against adults who have committed certain violations on their systems, but sends minors who commit these same acts through the judicial system.
- 3) Provides for misdemeanor penalties (for third or subsequent offenses) for adults engaging in various forms of fare evasion.

FISCAL EFFECT: Unknown

COMMENTS: According to the author, transit agencies need to have the ability to improve enforcement on rail and bus systems so that they can improve service and provide a better passenger experience for all transit users. To accomplish this, the author has introduced SB 413 on behalf of the sponsor, the California Transit Association (CTA), to provide for an administrative process for minors to resolve citations (as an alternative to going to court), to clarify various statutes with respect to noise violations, to clarify what constitutes rail authority property for the purposes of enforcement, and to provide transit officers with the ability to enforce certain provisions of the Americans with Disabilities Act (ADA).

Administrative Penalties for Minors: In 2006, SB 1749 (Migden), Chapter 258, Statutes of 2006, authorized certain transit operators to enforce administrative penalties for transit violations. While SB 1749 provided this administrative process for adults, it specifically precluded minors from using it with the intention that forcing minors to go to court would serve as a deterrent to engaging in prohibited conduct. As it stands, minors are instead required to enter the court system with respect to transit citations. This has overburdened the court system and the author believes that supplanting the requirement that minors go to court with resolving transit citations administratively, would provide minors with a means to more easily, quickly, and cost effectively resolve transit citations.

This proposed amendment has drawn mixed reaction from youth advocates. The San Francisco Youth Commission supports the provision for youth to use an administrative process to resolve transit citations and their support letter notes that allowing local transit agencies to use an administrative process to address transit citations for minors makes it easier for youth to resolve citations quickly and easily online thereby avoiding the need to go to court where excessive penalties and administrative fees are often assessed. They correctly point out when criminal penalties are assessed; fees often end up costing triple the base fine.

The Youth Law Center (YLC), on the other hand, contends that replacing the option of going to court with an administrative process would make it impossible for youth to "negotiate" alternative penalties, such as community service in lieu of fines. They also contend that online payment systems used by transit entities are not a realistic option for indigent youth who often lack computers, internet access, and credit cards. Transit agencies have confirmed, however, that their administrative processes do allow for all forms of payment (cash, credit cards, and checks) as well as the ability to substitute community service for fines.

Noise Violations: According to the author, different standards are applied with respect to what constitutes a noise violation on transit property. For example, the Penal Code states that officers may cite an individual for "disturbing another person with loud or unreasonable noise" while the Public Utilities Code states that individuals may be cited for "playing sound equipment on or in a system facility." To address inconsistencies and provide regular enforcement, SB 413 matches the wording with respect to noise violations and adds the clarification that failing to comply with the warning of a transit official related to a noise disturbance also constitutes a violation. By adding this clarifying language, the author hopes to make noise disturbance enforcement more uniform and consistent.

The YLC contends that in an attempt to clarify the codes, SB 413 has made the provision overly broad, implying that simply playing sound equipment could be a citable offense. While it is

unlikely that a transit officer would issue a citation if someone were simply listening to music on their iPod.

Rail Authority Property: SB 413 seeks to clarify what constitutes a rail authority property. According to the sponsor, transit officers often need to take enforcement action to address activities occurring on adjunct facilities such as tracks, culverts beneath tracks, viaducts, and facilities that are leased rather than owned. SB 413 elucidates that transit facilities include all properties owned or leased by the transit operator, including stations and rail cars or buses and associated facilities. By clarifying what constitutes a rail authority property, SB 413 will allow transit operators to better address prohibited conduct.

ADA Compliance: SB 413 addresses the act of failing to give up designated priority seating to elderly or disabled person, making failure to comply a violation that can be cited as an infraction. Specifically, the sponsor notes that in accordance with ADA requirements, signs are posted in facilities specifying that individuals must give up designated priority seating for elderly and disabled persons, upon request. Transit entities, however, are not authorized to cite passengers who refuse to comply, making it impossible for the transit agency to enforce ADA requirements.

Committee comments: Given that California has a stated goal of reducing emissions and improving air quality, it stands to reason that achieving this goal involves getting people out of their cars and onto public transit. Getting people to take transit, in lieu of driving, will be difficult, at best, if transit operators are not able to provide a safe, secure, and pleasant transit experience for their users. SB 413 gives transit operators the tools they need to keep their facilities safe and enjoyable to use, which, in turn, will increase ridership and help California achieve its clean air goals.

Suggested amendment: To address concerns of the YLC, the Committee suggests that the language in the bill with respect to playing sound equipment in transit facilities be clarified to ensure that citations are only be issued for "unreasonably loud" noise from sound equipment.

Double referral: This bill will be referred to the Assembly Public Safety Committee should it pass out of this committee.

Related legislation: AB 869 (Cooper), would authorize a transit district to pursue criminal penalties if a person fails to pay the administrative penalty or successfully complete a civil administrative process. AB 869 is currently pending in the Senate Appropriations Committee.

SB 24 (Hill), would restrict the use of e-cigarettes in specific areas, including adding the use of e-cigarettes on transit property to the list of activities that are infractions. SB 24 failed passage on the Senate Floor and was placed on the inactive file at the request of the author.

SB 140 (Leno), would, among other things, define "smoking" to include the use of e-cigarettes, and references this definition in relation to the smoking activity on a transit property. SB 140 is currently pending in the Assembly Governmental Organization Committee.

Previous legislation: SB 1749 (Migden), Chapter 258, Statutes of 2006, allowed for administrative enforcement of transit-related violations in the City and County of San Francisco and The Los Angeles County Metropolitan Transportation Authority.

REGISTERED SUPPORT / OPPOSITION:

Support

California Transit Association (Sponsor)
Arcata and Mad River Transit System
Free MUNI For Youth Coalition
Monterey-Salinas Transit
San Francisco Bay Area Rapid Transit District
San Francisco Municipal Transportation Agency
Santa Clara Valley Transportation Authority

Opposition

Legal Services for Prisoners with Children (likely removed opposition)
Youth Law Center

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