

Date of Hearing: March 25, 2019

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 390 (Frazier) – As Introduced February 5, 2019

SUBJECT: Notice to correct violations: exceptions

SUMMARY: Allows law enforcement to issue a corrective ticket for a violation of failing to have an adequate muffler or modifying an exhaust system to amplify the noise level of a vehicle. Specifically, **this bill:**

- 1) Allows law enforcement to issue a corrective ticket for any of the following:
 - a. Not equipping a motor vehicle with an adequate muffler in constant operation and properly maintained to prevent excessive or unusual noise;
 - b. Equipping a motor vehicle with a muffler or exhaust system with a cutout, bypass, or similar device; and
 - c. Modifying of an exhaust system of a motor vehicle in a manner that will amplify or increase the noise emitted by the motor vehicle to exceed existing noise limits.

EXISTING LAW:

- 1) Allows an officer to issue a written notice containing a violator's promise to correct an alleged violation involving a registration, license, all-terrain vehicle safety certificate, or mechanical requirement in lieu of a ticket unless the officer finds any of the following:
 - a) There is evidence of fraud or persistent neglect;
 - b) The violation presents an immediate safety hazard;
 - c) The violator does not agree to, or cannot, promptly correct the violation;
 - d) The violation is for a provision of law that requires every motor vehicle to be equipped with an adequate muffler in constant operation and properly maintained to prevent excessive or unusual noise;
 - e) The violation is for a provision of law that prohibits a muffler or exhaust system from being equipped with a cutout, bypass, or similar device; and
 - f) The violation is for a provision of law that prohibits the modification of an exhaust system of a motor vehicle in a manner that will amplify or increase the noise emitted by the motor vehicle to exceed existing noise limits.
- 2) Allows a court to dismiss the charges for a corrective ticket if the violator presents, by mail or in person, proof of correction on or before the date on which the violator has promised to appear.

- 3) Allows a violator to prove they corrected a violation with a proof of correction certificate from the following sources:
 - a) The Department of Motor Vehicles (DMV) for a violation involving a driver license and registration.
 - b) A licensed station or licensed adjuster that is licensed by the Bureau of Automotive Repair or a violation involving a brake, lamp, smog device, or muffler.
 - c) A police department, the California Highway Patrol (CHP), sheriff, marshal or other law enforcement agency regularly engaged in enforcement of the vehicle code.

FISCAL EFFECT: Unknown

COMMENTS: Since 1978 it has been California law to allow law enforcement officials to issue a corrective violation ticket for a mechanical violation of the vehicle code. This policy works as a carrot and a stick: fix the mechanical problem, or face a larger ticket. This change in policy has helped spurn an entire industry that has been licensed to issue corrective certificates and make repairs. It also helps keep California roads safe by ensuring a driver actually goes and makes the repair instead of hedging their bets between tickets.

Last year a budget trailer bill removed the authority for law enforcement to issue a corrective action for tickets issued for failing to have an adequate muffler or for having an exhaust system that produces noise that exceeds decibel limits.

Between 2013 and 2018, CHP issued over 12,700 tickets for muffler and exhaust system violations. Removing the corrective ticket has not reduced the number of citations. Between January and June of 2018, CHP issued 1,176 citations. Between July and December of 2018, after the budget measure took effect, CHP issued 1,210 citations.

According to the Author, “AB 390 would restore law enforcement’s discretion to issue a ‘fix-it-ticket’ for possible violations related to exhaust system operations & maintenance related to noise. A change was made to California law in 2018 that requires law enforcement to cite motorists for alleged exhaust system violations. AB 390 would give law enforcement and motorists more options before forcing them in to the judicial process.”

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 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’s 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 the 2017 budget, the state removed the court’s authority to notify the DMV for the suspension of individuals’ driver’s licenses for unpaid traffic fines. Last year’s budget created a pilot program that would allow 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.

The Specialty Equipment Market Association, writing in support of this bill, argues “Previously, motorists cited for having a loud muffler received what is known as a “fix-it” ticket, which allowed for 30-days to test and, if necessary, correct the violation. Now, motorists receive an immediate fine based on a subjective determination. Absent a scientific method, such as an SAE test, it is virtually impossible to settle the issue of compliance with the law.”

Committee comments: The change in last year’s budget trailer bill to remove the corrective ticket capability for loud muffler’s or exhaust systems seems antithetical to the recent legislative efforts to reduce the burden of traffic fines on low income individuals. A corrective ticket gets the repairs the state wants done and comes at a \$25 cost to the individual. Without the corrective ticket, a loud muffler violation would cost \$197, and a modified exhaust system would result in a \$193 ticket.

Further, the loss of the corrective ticket may very well make it harder for law enforcement to prove these violations exist. Under the law, the vehicle needs to exceed certain decibels in order to be out of compliance. However, law enforcement officers generally do not carry decibel readers on them. The fix-it ticket forced drivers to go into a shop and have the decibel level of their vehicle measured, and if necessary, modified. Without that, existing law may become unenforceable unless law enforcement officers start carrying decibel readers. Without them, it may be difficult to prove in court that a vehicle actually exceeded the legal sound limits.

Previous legislation:

AB 1824 (Budget) Chapter 38, Statutes of 2018, removed the fix-it ticket authority this bill seeks to restore, amongst other things.

SB 824 (Budget) Chapter 45, Statutes of 2018, established a pilot program for courts to provide relief to individuals for traffic fines and penalties based on their ability to pay, amongst other things.

REGISTERED SUPPORT / OPPOSITION:

Support

Specialty Equipment Market Association (Sponsor)
Western Center on Law & Poverty, Inc. (Sponsor)
ABATE
California Motorcycle Dealers Association
Throtl

Opposition

None on file

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