

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

AB 645 (Friedman)
Version: July 3, 2023
Hearing Date: July 11, 2023
Fiscal: Yes
Urgency: No
CK

SUBJECT

Vehicles: speed safety system pilot program

DIGEST

This bill authorizes a pilot project in six cities to deploy automated speed enforcement systems pursuant to specified conditions.

EXECUTIVE SUMMARY

To this point, California has taken an incremental approach at phasing in automated enforcement of certain laws. In 1994, the Legislature authorized automated rail crossing enforcement systems, recognizing the potential fatal consequences of the relevant violations. Over the following years, the trend moved to red-light cameras under a trial basis that was then made permanent. Next, a very limited pilot was authorized in San Francisco to install cameras on public transit vehicles, for the first time explicitly authorizing automated enforcement of parking violations, but limited to transit-only lanes. A similar trial was authorized in connection with the Alameda-Contra Costa Transit District (AC Transit). Both programs came with requirements to report back to the Legislature on the impacts of the programs. This law has since been extended state-wide indefinitely. Current law also authorizes cameras on street sweeping vehicles.

Automated enforcement can provide more thorough enforcement of certain laws and reduce the need for employees conducting such enforcement, a cost savings measure. However, with these benefits come serious concerns regarding privacy and equity. Furthering the reach of automated surveillance should arguably be gradual, thoughtful, and done with an understanding of, and countermeasures to prevent, potential unintended consequences. Such enforcement gathers a vast amount of data, may reduce the judicious enforcement of parking laws, and has the ability to create a perverse incentive for governments that stand to financially benefit from increased citations.

This bill authorizes automated speed enforcement systems to be deployed in six cities in California for up to five years until a sunset on January 1, 2032. The bill is co-sponsored by the City of San Jose, Mayor London Breed, Streets are For Everyone, Streets for All, and Walk San Francisco. It is supported by a large coalition of advocacy organizations and elected officials. It is opposed by a variety of advocacy organizations, including Black Lives Matter California, the California Teamsters, and ACLU California Action. The bill passed out of the Senate Transportation Committee on a 10 to 5 vote.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes a “basic speed law” that prohibits a person from driving a vehicle upon a highway at a speed greater than is reasonable or prudent having due regard for weather, visibility, the traffic on, and the surface and width of, the highway, and in no event at a speed which endangers the safety of persons or property. (Veh. Code § 22350.)
- 2) Authorizes the use of an automated enforcement system for enforcement of red light violations by a governmental agency, subject to specific requirements and limitations. (Veh. Code § 21455.5.)
- 3) Establishes the Active Transportation Program (ATP), a grant program administered by the California Transportation Commission (CTC) to encourage increased use of active modes of transportation, such as walking and biking. (Sts. & High. Code § 2380.)
- 4) Authorizes the designation of “safety corridors” for up to one-fifth of a local jurisdiction’s streets with the highest number of injuries and fatalities, with a definition to be determined by the California Department of Transportation (Caltrans) in the next revision of the California Manual on Uniform Traffic Control Devices. Authorizes jurisdictions to lower speed limits in safety corridors by 5 mph from the existing speed limit established by an engineering and traffic survey. (Veh. Code § 22358.7.)
- 5) Provides that a person is “indigent” for purposes of parking violations if the person meets specified income criteria or the person receives specified public benefits. (Veh. Code § 40220(c).)
- 6) Authorizes a public transit operator to install automated forward facing parking control devices on city-owned or district-owned public transit vehicles for the purpose of video imaging parking violations occurring in transit-only traffic lanes and at transit stops. Existing law defines a “transit-only traffic lane” to mean any designated transit-only lane on which use is restricted to mass transit

vehicles, or other designated vehicles including taxis and vanpools, during posted times. (Veh. Code § 40240(a), (h).)

- 7) States that citations shall only be issued for violations captured during the posted hours of operation for a transit-only traffic lane. Existing law requires designated employees to review video image recordings for the purpose of determining whether a parking violation occurred in a transit-only traffic lane, and permits alleged violators to review the video image evidence of the alleged violation during normal business hours at no cost. (Veh. Code § 40240(a), (c), (d).)
- 8) Requires automated forward facing parking control devices to be angled and focused so as to capture video images of parking violations and not unnecessarily capture identifying images of other drivers, vehicles, and pedestrians. Existing law requires the devices to record the date and time of the violation at the same time video images are captured, and provides that video image records are confidential and shall not be used or accessed for any purposes not related to the enforcement of parking violations occurring in transit-only traffic lanes. (Veh. Code § 40240(a), (f).)

This bill:

- 1) Authorizes designated jurisdictions to establish a program utilizing a speed safety system for speed enforcement, to be operated by a local department of transportation, in the following areas:
 - a) On a street meeting the standards of a safety corridor under Section 22358.7 of the Vehicle Code.
 - b) On a street a local authority has determined to have had a high number of incidents for motor vehicle speed contests or motor vehicle exhibitions of speed. A high number of incidents shall be at least four calls for law enforcement to respond to the area for an incident of a motor vehicle speed contest or motor vehicle exhibition of speed.
 - c) School zones, as provided.
- 2) Provides that if a school zone has a higher posted speed limit when children are not present, a designated jurisdiction may only enforce the school zone speed limit up to one hour before the regular school session begins, 10 minutes after school begins, one hour during lunch period, and up to one hour after regular school session concludes. For these school zones, flashing beacons activated by a time clock, other automatic device, or manual activation shall be installed on the school zone speed limit sign and be active to indicate the times during which the school zone speed limit is enforced with a speed safety system.
- 3) Defines “speed safety system” or “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 of a vehicle license plate.

- 4) Requires a speed safety system to meet all of the following requirements:
 - a) Clearly identifies the presence of the speed safety system by signs stating "Photo Enforced," along with the posted speed limit within 500 feet of the system. The signs shall be visible to traffic traveling on the street from the direction of travel for which the system is utilized, and shall be posted at all locations as may be determined necessary, as provided.
 - b) Identifies the streets or portions of streets that have been approved for enforcement using a speed safety system and the hours of enforcement on the municipality's internet website, which shall be updated whenever the municipality changes locations of enforcement.
 - c) Ensures that the speed safety system is regularly inspected and certified, as provided.
 - d) Utilizes fixed or mobile speed safety systems that provide real-time notification when violations are detected.

- 5) Requires jurisdictions to adopt a Speed Safety System Use Policy, which must include, among other things, the specific purpose for the system, the uses that are authorized, the rules and processes required prior to that use, and the uses that are prohibited. The policy must also include provisions for protecting data from unauthorized access, data retention, public access, third-party data sharing, training, auditing, and oversight to ensure compliance with the Speed Safety System Use Policy. It shall be made available for public review.

- 6) Requires jurisdictions to adopt a Speed Safety System Impact Report at a public hearing. It shall be made available for public review and include the following:
 - a) Assessment of potential impact of the speed safety system on civil liberties and civil rights and any plans to safeguard those public rights.
 - b) Description of the speed safety system and how it works.
 - c) Fiscal costs for the speed safety system, including program establishment costs, ongoing costs, and program funding.
 - d) If potential deployment locations of systems are predominantly in low-income neighborhoods, a determination of why these locations experience high fatality and injury collisions due to unsafe speed.
 - e) Locations where the system may be deployed and traffic data for these locations, including the address of where the cameras will be located.
 - f) Proposed purpose of the speed safety system.

- 7) Requires jurisdictions to submit to its local governing body and the transportation committees of the Legislature an evaluation of the speed safety system to determine its impact on street safety and the system's economic impact on the communities where the system is utilized. The report shall be made

publicly available and include specified information, including data on violations before and after implementation of the system. The evaluation must also include a racial and economic equity impact analysis, developed in collaboration with local racial justice and economic equity stakeholder groups. The analysis shall include the number of citations issued to indigent individuals, the number of citations issued to individuals of up to 250 percent above the poverty line, and the number of violations issued to each ZIP Code.

- 8) Requires jurisdictions to administer a public information campaign for at least 30 calendar days prior to the commencement of the speed safety program, which shall include public announcements in major media outlets and press releases. The public information campaign shall include the draft Speed Safety System Use Policy, the Speed Safety System Impact Report, information on when systems will begin detecting violations, the streets, or portions of streets, where systems will be utilized, and the designated jurisdiction's website, where additional information about the program can be obtained.
- 9) Provides that for the first 60 calendar days of the program the jurisdiction shall only issue warning notices rather than notices of violation for violations detected. A vehicle's first violation within a designated jurisdiction for traveling 11 to 15 miles per hour over the posted speed limit shall be a warning notice.
- 10) Identifies the designated jurisdictions as the Cities of Los Angeles, San Jose, Oakland, Glendale, and Long Beach, and the City and County of San Francisco. The number of speed safety systems that each city can operate is based on population:
 - a) For a jurisdiction with a population over 3,000,000, no more than 125 systems.
 - b) For a jurisdiction with a population between 800,000 and 3,000,000, inclusive, no more than 33 systems.
 - c) For a jurisdiction with a population of 300,000 up to 800,000, no more than 18 systems.
 - d) For a jurisdiction with a population of less than 300,000, no more than 9 systems.
- 11) Requires a local government's speed safety system placements to be diversified geographically and across neighborhoods of varying income. The local government shall describe how it has complied with this in the Speed Safety System Impact Report.
- 12) Prohibits placement of a speed safety system on certain roadways, including all freeways and expressways.

- 13) Requires notices of violation to be sent within 15 days and to include a clear photograph of the license plate and rear of the vehicle only, the Vehicle Code violation, the camera location, the date and time when the violation occurred, the amount of the penalty, and the process for paying or contesting the violation. Notices of violation shall exclude images of the rear window area of the vehicle. Registered owners are provided the opportunity to review the photographic evidence.
- 14) Provides that the photographic evidence stored by a speed safety system does not constitute an out-of-court hearsay statement by a declarant under Division 10 (commencing with Section 1200) of the Evidence Code.
- 15) Authorizes a person, for a period of 30 calendar days from the mailing of a notice of violation, to request an initial review at no charge. The request may be made by telephone, in writing, electronically, or in person. The results of the initial review must be mailed to the person contesting the notice, and, if cancellation of the notice does not occur, include a reason for that denial, notification of the ability to request an administrative hearing, and notice of the procedure for waiving prepayment of the civil penalty based upon an inability to pay.
- 16) Provides that, if the person contesting the notice of violation is dissatisfied with the results of the initial review, the person may, no later than 21 calendar days following the mailing of the results, request an administrative hearing of the violation. The request may be made by telephone, in writing, electronically, or in person. The person requesting an administrative hearing shall pay the amount of the civil penalty to the processing agency. The issuing agency shall adopt a written procedure to allow a person to request an administrative hearing without payment of the civil penalty upon satisfactory proof of an inability to pay the amount due. The administrative hearing shall be held within 90 calendar days.
- 17) Requires the administrative hearing process to include all of the following:
 - a) The person requesting a hearing shall have the choice of a hearing by mail, video conference, or in person. An in-person hearing shall be conducted within the jurisdiction of the issuing agency.
 - b) If the person requesting a hearing is a minor, that person shall be permitted to appear at a hearing or admit responsibility without the appointment of a guardian. The processing agency may proceed against the minor in the same manner as against an adult.
 - c) The administrative hearing shall be conducted in accordance with written procedures established by the issuing agency and approved by the governing body or chief executive officer of the issuing agency. The hearing shall provide an independent, objective, fair, and impartial review of contested automated speed violations.

- d) The issuing agency's governing body or chief executive officer shall appoint or contract with qualified independent examiners or administrative hearing providers that employ qualified independent examiners to conduct the administrative hearings.
- 18) Authorizes the contestant to seek review by filing an appeal to the superior court, where the case shall be heard de novo, except that the contents of the processing agency's file in the case on appeal shall be received in evidence. The conduct of the hearing on appeal under this section is a subordinate judicial duty that may be performed by a commissioner or other subordinate judicial officer at the direction of the presiding judge of the court.
- 19) Makes photographic or administrative records made by a system or obtained from the DMV confidential. The bill places restrictions on access and disclosure, permissible uses, and retention
- 20) Prohibits the use of facial recognition technology in conjunction with a speed safety system.
- 21) Prohibits contracts between jurisdictions and third party vendors from including provisions for payment or compensation based on the number of notices of violation issued by a designated municipal employee, or as a percentage of revenue generated, from the use of the system. The contract shall include a provision that all data collected is confidential, and shall prohibit the third party from sharing, repurposing, or monetizing collected data, except as specifically authorized. The designated jurisdiction shall oversee and maintain control over all enforcement activities, including the determination of when a notice of violation should be issued.
- 22) Requires at least one of the following thresholds to be met within the first 18 months of installation of a system:
- a) A reduction in the 85th percentile speed of vehicles compared to data collected before the system was in operation.
 - b) A 20-percent reduction in vehicles that exceed the posted speed limit by 10 miles per hour or more compared to data collected before the system was in operation.
 - c) A 20-percent reduction in the number of violators who received two or more violations at the location since the system became operational.
- 23) Exempts jurisdictions from having to meet the above thresholds if they add traffic-calming measures to the street.

- 24) Subjects those in violation only to a civil penalty and prohibits violations from resulting in suspension or revocation of driving privileges or in a point being assessed. A civil penalty shall be assessed as follows:
- a) \$50 for a speed violation from 11 up to 15 miles per hour over the limit.
 - b) \$100 for a speed violation from 16 up to 25 miles per hour over the limit.
 - c) \$200 for a speed violation of 26 miles per hour or more over the limit.
 - d) \$500 for traveling at a speed of 100 miles per hour or greater.
- 25) Requires revenues derived from any program to first be used to recover program costs, including the construction of traffic-calming measures. Jurisdictions shall maintain their existing commitment of local funds for traffic-calming measures. Any excess revenue shall be used for traffic-calming measures within three years. If traffic-calming measures are not planned or constructed after the third year, excess revenue shall revert to the Active Transportation Program to be allocated by the California Transportation Commission.
- 26) Requires a designated jurisdiction to offer a diversion program for indigent violation recipients, to perform community service in lieu of paying the penalty. A designated jurisdiction shall offer the ability for indigent violation recipients to pay applicable fines and penalties over a period of time under a payment plan with monthly installments of no more than \$25 and shall limit the processing fee to participate in a payment plan to \$5 or less. A designated jurisdiction shall reduce the applicable fines and penalties by 80 percent for indigent persons, and by 50 percent for individuals up to 250 percent above the federal poverty level.
- 27) Restricts programs from operating for more than five years and beyond January 1, 2032.

COMMENTS

1. The history of automated enforcement

While some counties may have installed automated traffic enforcement systems at an earlier date, legislative authorization for automated enforcement procedures relating to traffic violations began in 1994 with SB 1802 (Rosenthal, Ch. 1216, Stats. 1994). That bill authorized the use of “automated rail crossing enforcement systems” to enforce prohibitions on drivers from passing around or under rail crossings while the gates are closed. (Veh. Code § 22451.) Those systems functioned by photographing the front license plate and the driver of vehicles who proceeded around closed rail crossing gates in violation of the Vehicle Code provisions. The drivers of photographed vehicles, in turn, received citations for their violations.

In 1995, the Legislature authorized a three-year trial for red light camera enforcement programs. (SB 833, Kopp, Ch. 922, Stats. 1995.) Using similar technology, that program

used sensors connected to cameras to take photographs of the front license plate and driver upon entering an intersection on a red light. That program was permanently extended in 1998 by SB 1136 (Kopp, Ch. 54, Stats. 1998).

In 2007, the Legislature authorized a four-year pilot project where San Francisco was authorized to install video cameras on city-owned public transit vehicles for the purpose of video imaging parking violations occurring in transit-only traffic lanes. (AB 101, Ma, Ch. 377, Stats. 2007.) Three years later, the Legislature authorized a five-year statewide pilot project to allow local public agencies to use automated parking enforcement systems for street sweeping-related violations. (AB 2567, Bradford, Ch. 471, Stats. 2010.) In 2011, the Legislature extended San Francisco's automated transit-only lane enforcement program for an additional year, and required the City and County to provide a report to the Transportation and Judiciary Committees of the Legislature no later than March 1, 2015, describing the effectiveness of the pilot program and its impact on privacy. (AB 1041, Ma, Ch. 325, Stats. 2011.) Following the receipt of that report, San Francisco's transit-only lane enforcement program was permanently extended in AB 1287 (Chiu, Ch. 485, Stats. 2015).

The following year, AB 1051 (Hancock, Ch. 427, Stats. 2016) authorized AC Transit to operate an automated transit-only lane enforcement program similar to San Francisco's with a sunset on January 1, 2022. AC Transit was required to provide to the Transportation, Privacy and Consumer Protection, and Judiciary Committees of the Legislature an evaluation report of the enforcement system's effectiveness, impact on privacy, cost to implement, and generation of revenue, no later than January 1, 2021. (Veh. Code § 40240.5.)

Last session, AB 917 (Bloom, Ch. 709, Stats. 2021) expanded automated enforcement of parking violations using forward-facing cameras on transit vehicles to include both transit-only lanes and transit stops and extended the authorization statewide until January 1, 2027.

This bill authorizes designated jurisdictions to establish pilot programs utilizing a "speed safety system" for automated speed enforcement, to be operated by a local department of transportation.

2. Expanding automated enforcement to speed violations

This bill authorizes the Cities of Los Angeles, San Jose, Oakland, Glendale, or Long Beach, or the City and County of San Francisco to deploy speed safety systems in designated roadways, namely official "safety corridors," school zones, and streets a local authority has determined to have had a high number of incidents for motor vehicle speed contests or motor vehicle exhibitions of speed. High number of incidents is defined as four relevant calls to law enforcement. The utility of placing these systems in the first two categories is clear, one inherently has a high number of injuries and

fatalities and the other involves the presence of many children. The third category's threshold is arguably too low to provide sufficient justification for use of these systems. In response, the author has agreed to an amendment that raises the threshold to involve at least four separate incidents within the prior two years of placement.

The largest jurisdiction is authorized to deploy up to 125 systems with the smaller jurisdictions authorized to deploy no more than 9. Each jurisdiction is restricted to operating systems for no more than 5 years and no later than January 1, 2032, when the statute is rendered inoperative. The bill provides guidelines for rollout, reporting, adjudication, and spending. Unlike similar programs, violations are subject to civil penalties which are assessed against the owner, rather than the driver, of the vehicle. This results in situations where the owner is held vicariously liable for the conduct of the driver.

Revenue derived from the programs must first be used to recover program costs, including the construction of traffic-calming measures. Jurisdictions must maintain their existing commitment of local funds for traffic-calming measures. Any excess revenue must be used for traffic-calming measures within three years. If traffic-calming measures are not planned or constructed after the third year, excess revenue shall revert to the Active Transportation Program to be allocated by the California Transportation Commission.

According to the author:

Since the 1980s communities around the world have been using speed safety systems to slow drivers down. These cameras have proven to be widely effective. A 2005 systematic review of 14 studies of speed safety systems in Canada, Europe, Australia, and New Zealand found crash reductions of 5 to 69%, injury reductions of 12 to 65%, and fatality reductions of 17 to 71% at speed safety system locations after program implementation. Speed safety systems are used in over 150 communities across the United States, and more recently became eligible for federal funding under the Bipartisan Infrastructure Investment and Jobs Act as part of a new nationwide goal to achieve zero traffic fatalities. It is finally time for California to join 18 other states and the District of Columbia and authorize the use of speed safety systems.

3. Right to Privacy

The California Constitution provides that all people have inalienable rights, including the right to pursue and obtain privacy. (Cal. Const., art. I, Sec. 1.) The California Supreme Court writes:

The right of privacy is vitally important. It derives, in this state, not only from the protections against unreasonable searches and seizures guaranteed by the Fourth Amendment and article I, section 13, but also from article I, section 1, of our State Constitution. Homage to personhood is the foundation for individual rights protected by our state and national Constitutions.

(In re William G. (1985) 40 Cal.3d 550, 563.)

This Committee has previously expressed concern about the privacy implications of automated imaging that records not only vehicles, but also individuals on sidewalks and commercial and residential property adjacent to the roadway.

There are no specific restrictions in the bill about what the cameras used in these systems can capture. While there are retention limitations, administrative records and photographs can be kept up to three years in certain circumstances. To address these concerns, the author has agreed to amendments that limit the three-year retention provision to only information that the vehicle was cited and convicted of a violation. The amendments will also ensure that the systems, to the extent feasible, must be angled and focused so as to only capture photographs of speeding violations and not capture identifying images of other drivers, vehicles, and pedestrians.

There are also use limitations placed on the evidence, allowing public agencies to use information collected and maintained through a speed safety system only to administer the program, and shall not disclose it to any other persons, including any other state or federal government agency or official, for any other purpose, except as required by state or federal law, court order, or in response to a subpoena in an individual case or proceeding.

To provide a layer of protection, the information being collected as part of these programs is deemed confidential.

4. Equity, due process, and effectiveness versus revenue generation

This Committee has also previously expressed concern over the use of automated enforcement programs not as a means to promote roadway safety, but as a mechanism for revenue generation and how that might affect the fairness and equity of the program. Ultimately, there is concern that those paying for whatever revenue generation there is will be disproportionately low-income communities who tend to bear the brunt of the cost of citations. Depending on how authorized local agencies administer this new power, it could lead to an unreasonable or inflexible mode of enforcement that would not necessarily be the case with enforcement by officers present to witness a speeding violation.

Photographic evidence necessarily limits the field of view of an observer, and prevents consideration of relevant facts that would otherwise be available to an officer who sees an event transpire in person. In addition, the holistic assessment that can be performed by an actual person on the ground allows for more thoughtful and judicious enforcement of speeding violations. The replacement of officers with these systems draws the opposition of the Peace Officers' Research Association of California (PORAC):

Although the sponsor cities claim that these cameras would not be used to replace officers on the streets, who are used for much more than just traffic duties, it has come to PORAC's attention that the City of Oakland is planning to eliminate the Police Department's entire traffic division due to a budget shortage and with the anticipation of the passage of AB 645, even though this bill is supposed to be a "pilot project". For these punitive labor/management reasons, PORAC asks that the City of Oakland be removed from the bill or that the bill be held in its entirety and the sponsor cities be asked to come to the bargaining table with local labor.

Ultimately, the technology and process will inevitably lead to errors. Yet, unlike in criminal cases, the civil enforcement regime established by the bill does not afford the same procedural protections. For these reasons, they are less likely to identify errors in the technology or process that led to their notice of violation. The bill also provides that photographic evidence stored by a speed safety system does not constitute an out-of-court hearsay statement by a declarant.

Writing in opposition, Safer Streets highlights these due process concerns:

Tickets issued by the speed cameras would be civil violations subject to adjudication in an administrative hearing. This would eliminate almost all rights currently afforded defendants when cases are heard as infractions in Superior Court, including the right to face your accuser and the right to discovery. In fact, AB-645 specifically states that the issuing agency shall not be required to produce any evidence other than the ticket and photographic evidence of the alleged violation. Further, the burden of proof would shift to the defendant and the standard of proof would be reduced to "preponderance of the evidence" rather than "beyond a reasonable doubt". In essence, speeding tickets would be handled much the way parking tickets are currently handled and we already understand how abusive that system is, even with fines much lower than for speeding tickets. Further, the ticket would go to the vehicle owner, not the driver, so many people who simply own a vehicle driven by someone else would be on the hook for the ticket with no legal ability to shift responsibility to the actual driver. Further, the system wouldn't capture a photo of the driver, so they might not even know who was driving to hold them

responsible. Finally, we believe that creating a dual fine and enforcement scheme – one for drivers cited by live police officers and one for vehicle owners cited by automated cameras – is unconstitutional and violates the equal protection clauses of the State and US constitutions.

The bill does provide for some notice to affected communities. It requires a 30-day public information campaign before a system can be deployed in any specific location. In addition, the jurisdictions can only issue warning notices for the first 60 days. Thereafter, a vehicle's first violation within any designated jurisdiction shall be issued only a warning notice where the violation is for traveling 11 to 15 miles per hour over the limit.

The bill does include a number of provisions that seek to mitigate equity concerns, especially with respect to lower-income vehicle owners and an overconcentration of these systems in socio-economically disadvantaged communities. A designated jurisdiction is required to offer a diversion program for indigent owners who are found in violation to perform community service in lieu of paying the penalty for an automated speed system violation. They must also be offered the opportunity to pay penalties over time. All applicable fines and penalties must be reduced by 80 percent for indigent persons, and by 50 percent for individuals up to 250 percent above the federal poverty level.

The civil penalties are also capped depending on the severity of the violation, \$50 for violations of 11 to 15 miles per hour above the posted speed limit up to \$500 for driving 100 miles per hour or more. In addition, the bill requires jurisdictions to carry out evaluations that are to be shared with the public and submitted to the Legislature. The evaluation must include a racial and economic equity impact analysis that includes the number of citations issued to lower-income vehicle owners and the number of violations issued to each ZIP Code. Amendments taken by the Senate Transportation Committee require a local government's speed safety system placements to be diversified geographically and across neighborhoods of varying income. The jurisdiction is required to describe how it has complied with this provision in its required Speed Safety System Impact Report

Concerns have been raised about whether these systems will ultimately be effective in reducing speeds and increasing safety or simply as a tool to increase local revenues. A coalition of organizations in opposition, including ACLU California Action and the Electronic Frontier Foundation, write:

Speed cameras are expensive to implement. For example, between fiscal year 2014 and 2019, New York City's speed safety program cost just shy of \$165 million, including an operating cost of \$104 million. Other cities' speed camera programs also cost millions annually to administer.

While the revenue raised by these speed cameras made up for the costs, that has raised the question of whether speed cameras may be exploited as a revenue-generating tool rather than used solely for the speed enforcement purpose for which they were initially installed. For example, when it changed its speed camera program to issue tickets for driving 6 mph above the speed limit in 2021, for example, Chicago generated \$89 million in fines in just one year and increased the daily tickets issued by nearly ninefold – despite pedestrian fatalities also increasing that same year. AB 645 appears to require excess revenue generated by speed cameras be used for traffic calming measures; however, it also allows excess revenue to revert to the Active Transportation Program instead of traffic calming measures after the third year, raising the risk that the speed cameras installed under AB 645 may become focused on revenue generation rather than traffic calming measures.

To address pedestrian safety issues, we need investment in capital improvements – especially in those areas least equitably served currently. Traffic calming uses physical infrastructure changes and addresses how roads can be multi-modal to increase mobility for nondrivers, decrease car-based travel, reduce pollution and congestion on roads, and create more efficient physical spaces. Traffic calming measures can be relatively inexpensive in the short-term, do not require the steep ongoing costs that speed cameras do, and can be more effective. As Priya Sarathy Jones of the Fines and Fees Justice Center has noted:

“[r]elying on enforcement and financial penalties to solve issues that stem from street design cannot solve the epidemic of traffic fatalities. And even a simple traffic ticket can trap working families in a vicious cycle of poverty and punishment if they can’t afford to pay the stiff fines and fees that jurisdictions often impose. Design, on the other hand, is an upstream solution. When streets are designed with safety in mind, people intuitively drive more slowly, making them able to notice and process important signals from their environment, preventing dangerous behavior before it occurs, and focusing efforts on safer systems rather than individual behavior.

When streets are designed primarily to move as many cars as possible as fast as possible, and people are not provided the infrastructure they need to walk and bike safely, enforcement often punishes travelers for behaving logically...When a road looks and feels like a highway and is designed for 45 mph or more but has a speed limit of 35 mph

or less, many drivers are not aware they are making a mistake—until it's too late. The result of that is frequently issued citations, but not a change to overall driving behaviors.”

AB 645 contains this same flaw, specifically authorizing the cameras to be used on roadways designated as a safety corridor under section 22358.7 of the Vehicle Code. However, per AB 43 (2021) and AB 1938 (2022), speed limits on safety corridors can be reduced up to 12 mph below the operating speed of the roadway as measured by the 85th percentile of vehicle speeds. AB 645 allows ticketing starting at 11 mph over the speed limit, so drivers traveling below the speed the road was designed for will be subject to ticketing. Rather than requiring that cities employ proper engineering countermeasures to calm traffic and make the roadways self-enforcing at the desired speed limit, AB 645 instead specifically allows cities to run speed traps using automated ticketing on these poorly designed roads.

The bill does include a requirement that the system meet certain performance benchmarks. In order to keep operating, the bill requires at least one of the following thresholds to be met within the first 18 months of installation of a system:

- A reduction in the 85th percentile speed of vehicles compared to data collected before the system was in operation.
- A 20-percent reduction in vehicles that exceed the posted speed limit by 10 miles per hour or more compared to data collected before the system was in operation.
- A 20-percent reduction in the number of violators who received two or more violations at the location since the system became operational.

However, jurisdictions are exempted from these already modest benchmarks for success if it adds “traffic-calming measures.” The term is defined broadly to include anything from bicycle lanes to chokers. If the location has a vehicle speed feedback sign, the timeline can be extended by two more years.

The Western States Trucking Association raises concerns in connection with these standards and the breadth of the program:

[T]he bill allows speed cameras to be used on “a street a local authority has determined to have had a high number of incidents for motor vehicle speed contests or motor vehicle exhibitions of speed,” which is defined as only four calls to law enforcement throughout an unspecified time period that could be made by a single individual, thus this could potentially permit the cameras on any major street. Additionally, such cameras would only be required to cease operations within 18 months if one of the following thresholds has not been met: 1) a reduction in the 85th

percentile speed of vehicles compared to data collected before the system was in operation; 2) a 20% reduction in vehicles that exceed the posted speed limit by 10 mph or more compared to data collected before the system was in operation; or 3) a 20% reduction in the number of violators who received two or more violations at the location since the system became operational. Nevertheless, such thresholds can be ignored entirely, and the speed cameras can continue to be used, if certain “traffic calming measures” are implemented – many of which, including adding bike lanes, are not true traffic calming measures.

5. Additional stakeholder positions

San Francisco Mayor London Breed, the sponsor of this bill, writes:

While traffic safety is a citywide issue, our low-income communities face the greatest burden. Only a third of our city’s streets run through historically disadvantaged communities, however, streets in these neighborhoods are almost twice as likely to be on the High Injury Network. Vision Zero efforts have historically focused on a traditional law enforcement response to help address speeding and other dangerous driver behaviors. However, these traditional enforcement methods have had a well-documented disparate impact on communities of color, and implicit or explicit racial bias in police traffic stops puts drivers of color at risk. That is why we are seeking alternatives to traditional enforcement mechanisms that will protect public safety while being responsive to community concerns.

The thoughtful approach taken in AB 645 would center equity considerations in the pilot programs, including community stakeholder engagement requirements, ensuring the citation type and amount serves as a deterrent without being overly burdensome for low-income drivers, and a requirement to analyze the racial equity and financial impacts of the pilot program. The bill also ensures data privacy protections are in place to protect both drivers and residents of communities where cameras are located. Robust notice, signage, and warning requirements will ensure drivers are not caught off guard when entering a corridor with speed safety cameras.

Writing in support, a broad coalition of groups, including Lyft and TransForm, assert the need for the bill:

AB 645 was designed with equity in mind. Traffic violence disproportionately impacts

low-income residents and communities of color. AB 645 has significantly lower fines starting at \$50 for going 11-15 miles per hour over the speed limit. This fee is significantly lower than the current price of a speeding ticket in California which can cost up to \$490. In addition, AB 645 requires that cities reduce fines for those under the poverty line by 80% or offer a community service alternative. For individuals 200% above the federal poverty line, cities must reduce fines by 50%.

AB 645 requires that cities use subsequent revenue towards engineering safer streets. After paying to administer the program, cities must spend the money on infrastructure to promote biking, walking, and slowing cars down. Potential infrastructure changes may include bicycle lanes, median islands, roundabouts, speed humps, etc. Further, AB 645 prohibits cities from shifting existing expenditures on traffic calming measures to backfill the revenue generated into their budget.

AB 645 limits the number of cameras used by each city, and it places performance metrics on cameras to ensure the program's success. If the safety system pilot program has not reduced violations by at least 25%, or second violations by 50%, after 18 months of use, the city is required to start planning the construction of traffic calming or bike/pedestrian infrastructure in areas where the cameras are installed. If cities do not start this construction in two years, the cameras can no longer be used at the location.

Slowing drivers down is imperative for reducing traffic deaths and injuries. In a perfect world, all our streets would be redesigned to encourage much slower speeds by narrowing lanes, installing traffic calming, and other queues to maintain safe speeds. But these reforms will take over 100 years to implement at current funding levels. We cannot accept tens of thousands of traffic deaths and injuries – disproportionately impacting low-income people of color – while we slowly retrofit our roadway infrastructure. AB 645 proposes a balanced approach to help California significantly reduce the 4,258 traffic fatalities, reduce injuries, and improve the safety of our roads for all Californians.

Decarcerate Sacramento writes in opposition:

AB 645 states that: “Speed safety systems can advance equity by improving reliability and fairness in traffic enforcement while making speeding enforcement more predictable, effective, and broadly implemented, all of which helps change driver behavior.” We do not believe this assertion is defensible based on the available data. For example, the spatial relationship between Oakland’s identified “High

Injury Network" and designated "communities of concern" makes clear that the implementation of automated speed enforcement along the High Injury Network would disproportionately impact low-income minority communities. As such, it is exceedingly likely that implementation will result in circumstances similar to those facing Chicago, where households in majority Black and "Hispanic" ZIP codes were ticketed at two times the rate of white ZIP codes between 2015 and 2019, and three times the rate of white ZIP codes during the pandemic. This reflects a clear trend amongst automated enforcement mechanisms – they are routinely found to disproportionately ticket drivers in disadvantaged neighborhoods. In the District of Columbia, for example, where photo enforcement accounts for 96 percent of citations and 97 percent of fines, drivers in Black-segregated areas were over seventeen times more likely to receive a moving violation than drivers in white-segregated areas.

SUPPORT

City of San Jose (co-sponsor)

Mayor of City & County of San Francisco London Breed (co-sponsor)

Streets are For Everyone (SAFE) (co-sponsor)

Streets for All (co-sponsor)

Walk San Francisco (co-sponsor)

Aarshdeep Kahlon, Chair, San José Bicycle and Pedestrian Advisory Committee

Abundant San Francisco

Active San Gabriel Valley

Alameda County Board of Supervisors

Alameda County Supervisor Nate Miley

Alameda County Transportation Commission

Alameda-Contra Costa Transit District

Association of Bay Area Governments

Association of Pedestrian and Bicycle Professionals

Bahati Foundation

Barbary Coast Neighborhood Association

Bay Area Council

Berkeley Path Wanders Association

Bike LA

Calbike

California YIMBY

Central City Neighborhood Partners

Circulate San Diego

City of Glendale

City of Long Beach

City of Los Angeles

City of Oakland

City of San Jose, Councilmember Batra
City of San Jose, Councilmember Bien Doan
City of San Jose, Councilmember David Cohen
City of San Jose, Councilmember Dev Davis
City of San Jose, Councilmember Omar Torres
City of San Jose, Councilmember Ortiz
City of San Jose, Councilmember Pam Foley
City of San Jose, Councilmember Sergio Jimenez
City of San Jose, Mayor, Matt Mahan,
City of San Jose, Vice Mayor, Rosemary Kamei
Climate Action Santa Monica
Conor Lynch Foundation
County of Los Angeles Board of Supervisors
Cruise
Culver City Democratic Club
Faith for Safer Streets
Families for Safe Streets San Diego
International Union of Operating Engineers, Cal-Nevada Conference
Investing in Place
Japantown Task Force
Kidsafe Sf
Livable Cities
Livable Communities Initiative
Los Angeles Walks
Lyft, Inc.
Marin County Bicycle Coalition
Metropolitan Transportation Commission
Move Santa Barbara County
National Association of City Transportation Officials
National Coalition for Safer Roads
National Japanese American Historical Society, INC.
Norwalk Unides
Richmond Family SF
San Diego County Bicycle Coalition
San Francisco Bay Area Families for Safe Streets
San Francisco Bicycle Coalition
San Francisco County Transportation Authority
San Francisco Unified School District
Santa Clara County Board of Supervisors, Sylvia Arenas
Santa Monica Safe Streets Alliance
Santa Monica Spoke
Silicon Valley Bicycle Coalition
So Cal Cycling
SoCal Families for Safe Streets

South Pas Active Streets
Spur
Stop4aidan
Street Racing Kills
Streets for People
Tenderloin Community Benefit District
Tenderloin Traffic Safety Task Force
The League of American Bicyclists
The Sequoias San Francisco Resident Association
Transform
West Hollywood Bicycle Coalition

OPPOSITION

ABATE Motorcyclists
ACLU California Action
Anti Police-Terror Project
Black Lives Matter California
California Teamsters Public Affairs Council
Decarcerate Sacramento
Electronic Frontier Foundation
National Motorists Association
Oakland Privacy
Safer Streets LA
Western States Trucking Association
Youth Together

RELATED LEGISLATION

Pending Legislation:

AB 361 (Ward, 2023) authorizes a local agency to install an automated parking control device on parking enforcement vehicles for the purpose of capturing photographic images of parking violations occurring in bicycle lanes, until January 1, 2030. AB 361 is currently on the Senate Floor.

AB 1463 (Lowenthal, 2023) requires a local public agency end-user of an automated license plate reader (ALPR) to purge information that does not match information on a hot list, as defined, within 30 days and explicitly prohibits the selling, sharing or transferring of ALPR data to an out-of-state or federal agency without a valid California court order or warrant. AB 1463 is set to be heard in this Committee the same day as this bill.

Prior Legislation:

AB 550 (Chiu, 2021) would have authorized a pilot program for automated speed enforcement in several cities in California. AB 550 was held in the Assembly Appropriations Committee.

AB 917 (Bloom, Ch. 709, Stats. 2021) *See* Comment 1.

AB 1051 (Hancock, Ch. 427, Stats. 2016) *See* Comment 1.

AB 1287 (Chiu, Ch. 485, Stats. 2015) *See* Comment 1.

AB 1041 (Ma, Ch. 325, Stats. 2011) *See* Comment 1.

AB 2567 (Bradford, Ch. 471, Stats. 2010) *See* Comment 1 and 4.

AB 101 (Ma, Ch. 377, Stats. 2007) *See* Comment 1 and 4.

SB 1136 (Kopp, Ch. 54, Stats. 1998) *See* Comment 1.

SB 833 (Kopp, Ch. 922, Stats. 1995) *See* Comment 1.

SB 1802 (Rosenthal, Ch. 1216, Stats. 1994) *See* Comment 1.

PRIOR VOTES:

Senate Transportation Committee (Ayes 10, Noes 5)

Assembly Floor (Ayes 58, Noes 7)

Assembly Appropriations Committee (Ayes 11, Noes 3)

Assembly Privacy and Consumer Protection Committee (Ayes 8, Noes 1)

Assembly Transportation Committee (Ayes 12, Noes 0)
