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AB-917 Vehicles: video imaging of parking violations. (2021-2022)

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Assembly Bill No. 917

CHAPTER 709

An act to amend, repeal, and add Sections 40240 and 40241 of, and to repeal and add Section 40240.5 of, the Vehicle Code, relating to vehicles.

[Approved by Governor October 08, 2021. Filed with Secretary of State October 08, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 917, Bloom. Vehicles: video imaging of parking violations.

Existing law authorizes the City and County of San Francisco (San Francisco) and, until January 1, 2022, the Alameda-Contra Transit District, to enforce parking violations in specified transit-only traffic lanes through the use of video imaging and to install automated forward facing parking control devices on city-owned public transit vehicles for the purpose of video imaging parking violations occurring in transit-only traffic lanes, as specified. Existing law requires a designated employee, who is qualified by San Francisco, or a contracted law enforcement agency for the Alameda-Contra Costa Transit District, who is qualified by the city and county or the district to issue parking citations, to review video image recordings for the purpose of determining whether a parking violation occurred in a transit-only traffic lane and to issue a notice of violation to the registered owner of a vehicle within 15 calendar days, as specified. Existing law makes these video image records confidential, and provides that these records are available only to public agencies to enforce parking violations. Existing law provides that if the Alameda-Contra Costa Transit District implements an automated enforcement system as described above, the district is required to submit a report to specified committees of the Legislature by no later than January 1, 2021.

This bill would extend the authorization described above to any public transit operator in the state until January 1, 2027, and to the City and County of San Francisco indefinitely, if the examiner or issuing agency, as specified, of a violation allows for the reduction or waiver of parking penalties for indigent individuals, as defined. The bill would authorize a designated employee or law enforcement agency to decline to issue a ticket, if there is evidence in the video of hardship. The bill would expand the authorization to enforce parking violations to include violations occurring at transit stops. The bill would repeal the obsolete reporting requirement of the Alameda-Contra Costa Transit District but would, except as specified, require an operator who implements an automated enforcement system to report to specified committees of the Legislature on the system's effectiveness and impact on traffic outcomes, among other things.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings regarding the need to make certain video image records confidential.

This bill would make legislative findings and declarations as to the necessity of a special statute for the City and County of San Francisco.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 40240 of the Vehicle Code is amended to read:

40240. (a) A public transit operator, as defined in Section 99210 of the Public Utilities Code, may install automated forward facing parking control devices on city-owned or district-owned public transit vehicles, as defined by Section 99211 of the Public Utilities Code, for the purpose of video imaging of parking violations occurring in transit-only traffic lanes and at transit stops. Citations shall be issued only for violations captured during the posted hours of operation for a transit-only traffic lane or during the scheduled operating hours at transit stops. The devices shall 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. The devices shall record the date and time of the violation at the same time as the video images are captured. Transit agencies may share the relevant data, video, and images of parking violations collected by automated forward facing parking control devices with the local parking enforcement entity and local agency in the jurisdiction where the violation occurred. A transit operator, including the City and County of San Francisco and the Alameda-Contra Costa Transit District, may only install forward facing cameras pursuant to this section if the examiner or issuing agency, as described in Section 40215, includes options to reduce or waive the payment of a parking penalty if the examiner or issuing agency determines that the person is an indigent person as defined in Section 40220.

(b) Prior to issuing notices of parking violations pursuant to subdivision (a) of Section 40241, a public transit operator, in partnership with a city, county, city and county, or local enforcement authority, shall commence a program to issue only warning notices for 60 days and shall also make a public announcement of the program and provide the public with information about the enforcement program, existing parking regulations, and the payment options available for low-income persons at least 60 days prior to commencement of issuing notices of parking violations.

(c) A designated employee of a city, county, city and county, or a contracted law enforcement agency for a special transit district, who is qualified by a city, county, city and county, or district to issue parking citations, shall review video image recordings for the purpose of determining whether a parking violation occurred in a transit-only traffic lane or at a transit stop. A violation of a statute, regulation, or ordinance governing vehicle parking under this code, under a federal or state statute or regulation, or under an ordinance enacted by a city, county, city and county, or special transit district occurring in a transit-only traffic lane or at a transit stop observed by the designated employee in the recordings is subject to a civil penalty.

(d) The registered owner shall be permitted to review the video image evidence of the alleged violation during normal business hours at no cost.

(e) (1) Except as it may be included in court records described in Section 68152 of the Government Code, or as provided in paragraph (2), the video image evidence may be retained for up to six months from the date the information was first obtained, or 60 days after final disposition of the citation, whichever date is later, after which time the information shall be destroyed.

(2) Notwithstanding Section 26202.6 of the Government Code, video image evidence from forward facing automated enforcement devices that does not contain evidence of a parking violation occurring in a transit-only traffic lane or at a transit stop shall be destroyed within 15 days after the information was first obtained. Video image data and records collected pursuant to this section shall not be used or processed by an automated license plate recognition system, as defined in Section 1798.90.5 of the Civil Code, unless the public transit operator, city, county, city and county, or local enforcement authority meets the requirements in this paragraph and paragraph (1), the requirements of subdivision (f), and the requirements of subdivision (e) of Section 40241.

(f) Notwithstanding Section 6253 of the Government Code, or any other law, the video image records are confidential. Public agencies shall use and allow access to these records only for the purposes authorized by this article.

(g) The following definitions shall apply for purposes of this article:

(1) "Local agency" means a public transit operator as defined in Section 99210 of the Public Utilities Code or a local city, county, or city and county parking enforcement authority.

(2) "Transit-only traffic lane" means 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.

(h) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

SEC. 2. Section 40240 is added to the Vehicle Code, to read:

40240. (a) The City and County of San Francisco may install automated forward facing parking control devices on city-owned or district-owned public transit vehicles, as defined in Section 99211 of the Public Utilities Code, for the purpose of video imaging of parking violations occurring in transit-only traffic lanes and at transit stops. Citations shall be issued only for violations captured during the posted hours of operation for a transit-only traffic lane or during the scheduled operating hours at transit stops. The devices shall 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. The devices shall record the date and time of the violation at the same time as the video images are captured. Transit agencies may share the relevant data, video, and images of parking violations collected by automated forward facing parking control devices with the local parking enforcement entity and local agency in the jurisdiction where the violation occurred. The City and County of San Francisco may only install forward facing cameras pursuant to this section if the examiner or issuing agency, as described in Section 40215, includes options to reduce or waive the payment of a parking penalty if the examiner or issuing agency determines that the person is an indigent person as defined in Section 40220.

(b) Prior to issuing notices of parking violations pursuant to subdivision (a) of Section 40241, the City and County of San Francisco shall commence a program to issue only warning notices for 60 days and shall also make a public announcement of the program and provide the public with information about the enforcement program, existing parking regulations, and the payment options available for low-income persons at least 60 days prior to commencement of issuing notices of parking violations.

(c) A designated employee of the City and County of San Francisco who is qualified to issue parking citations shall review video image recordings for the purpose of determining whether a parking violation occurred in a transit-only traffic lane or at a transit stop. A violation of a statute, regulation, or ordinance governing vehicle parking under this code, under a federal or state statute or regulation, or under an ordinance enacted by the City and County of San Francisco occurring in a transit-only traffic lane or at a transit stop observed by the designated employee in the recordings is subject to a civil penalty.

(d) The registered owner shall be permitted to review the video image evidence of the alleged violation during normal business hours at no cost.

(e) (1) Except as it may be included in court records described in Section 68152 of the Government Code, or as provided in paragraph (2), the video image evidence may be retained for up to six months from the date the information was first obtained, or 60 days after final disposition of the citation, whichever date is later, after which time the information shall be destroyed.

(2) Notwithstanding Section 26202.6 of the Government Code, video image evidence from forward facing automated enforcement devices that does not contain evidence of a parking violation occurring in a transit-only traffic lane or at a transit stop shall be destroyed within 15 days after the information was first obtained. Video image data and records collected pursuant to this section shall not be used or processed by an automated license plate recognition system, as defined in Section 1798.90.5 of the Civil Code, unless the public transit operator, city, county, city and county, or local enforcement authority meets the requirements of this paragraph and paragraph (1), the requirements of subdivision (f), and the requirements of subdivision (e) of Section 40241.

(f) Notwithstanding Section 6253 of the Government Code or any other law, the video image records are confidential. Public agencies shall use and allow access to these records only for the purposes authorized by this article.

(g) For purposes of this article, "transit-only traffic lane" means 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.

(h) This section shall become operative on January 1, 2027.

SEC. 3. Section 40240.5 of the Vehicle Code is repealed.

SEC. 4. Section 40240.5 is added to the Vehicle Code, to read:

40240.5. (a) A public transit operator, including the Alameda-Contra Costa Transit District, that implements an automated enforcement system to enforce parking violations occurring in transit-only traffic lanes and at transit stops pursuant to this article, shall provide to the transportation, privacy, and judiciary committees of the Legislature an evaluation report of the enforcement system's effectiveness, impact on privacy, impact on traffic outcomes, cost to implement, change in citations issued, and generation of revenue, no later than January 1, 2025. This section shall not apply to the City and County of San Francisco.

(b) A report submitted pursuant to this section shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 5. Section 40241 of the Vehicle Code is amended to read:

40241. (a) A designated employee of the local agency, including a contracted law enforcement agency, shall issue a notice of parking violation to the registered owner of a vehicle within 15 calendar days of the date of the violation. A designated employee

or contracted law enforcement agency may decline to issue a ticket based on the evidence in the video illustrating hardship. The notice of parking violation shall set forth the violation of a statute, regulation, or ordinance governing vehicle parking under this code, under a federal or state statute or regulation, or under an ordinance enacted by the local agency occurring in a transit-only traffic lane or at a transit stop, a statement indicating that payment is required within 21 calendar days from the date of citation issuance, and the procedure for the registered owner, lessee, or rentee to deposit the parking penalty or contest the citation pursuant to Section 40215. The notice of parking violation shall also set forth the date, time, and location of the violation, the vehicle license number, registration expiration date, if visible, the color of the vehicle, and, if possible, the make of the vehicle. The notice of parking violation, or copy of the notice, shall be considered a record kept in the ordinary course of business of the local agency and shall be prima facie evidence of the facts contained in the notice. The local agency shall send information regarding the process for requesting review of the video image evidence along with the notice of parking violation.

(b) The notice of parking violation shall be served by depositing the notice in the United States mail to the registered owner's last known address listed with the Department of Motor Vehicles. Proof of mailing demonstrating that the notice of parking violation was mailed to that address shall be maintained by the local agency. If the registered owner, by appearance or by mail, makes payment to the processing agency or contests the violation within either 21 calendar days from the date of mailing of the citation, or 14 calendar days after the mailing of the notice of delinquent parking violation, the parking penalty shall consist solely of the amount of the original penalty.

(c) If, within 21 days after the notice of parking violation is issued, the local agency determines that, in the interest of justice, the notice of parking violation should be canceled, the local agency shall cancel the notice of parking violation pursuant to subdivision (a) of Section 40215. The reason for the cancellation shall be set forth in writing.

(d) Following an initial review by the local agency, and an administrative hearing, pursuant to Section 40215, a contestant may seek court review by filing an appeal pursuant to Section 40230.

(e) A local agency or a contracted law enforcement agency, may contract with a private vendor for the processing of notices of parking violations and notices of delinquent violations. The local agency shall maintain overall control and supervision of the program.

(f) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

SEC. 6. Section 40241 is added to the Vehicle Code, to read:

40241. (a) A designated employee of the City and County of San Francisco, including a contracted law enforcement agency, shall issue a notice of parking violation to the registered owner of a vehicle within 15 calendar days of the date of the violation. A designated employee or contracted law enforcement agency may decline to issue a ticket based on the evidence in the video illustrating hardship. The notice of parking violation shall set forth the violation of a statute, regulation, or ordinance governing vehicle parking under this code, under a federal or state statute or regulation, or under an ordinance enacted by the City and County of San Francisco occurring in a transit-only traffic lane or at a transit stop, a statement indicating that payment is required within 21 calendar days from the date of citation issuance, and the procedure for the registered owner, lessee, or rentee to deposit the parking penalty or contest the citation pursuant to Section 40215. The notice of parking violation shall also set forth the date, time, and location of the violation, the vehicle license number, registration expiration date, if visible, the color of the vehicle, and, if possible, the make of the vehicle. The notice of parking violation, or copy of the notice, shall be considered a record kept in the ordinary course of business of the City and County of San Francisco and shall be prima facie evidence of the facts contained in the notice. The City and County of San Francisco shall send information regarding the process for requesting review of the video image evidence along with the notice of parking violation.

(b) The notice of parking violation shall be served by depositing the notice in the United States mail to the registered owner's last known address listed with the Department of Motor Vehicles. Proof of mailing demonstrating that the notice of parking violation was mailed to that address shall be maintained by the City and County of San Francisco. If the registered owner, by appearance or by mail, makes payment to the processing agency or contests the violation within either 21 calendar days from the date of mailing of the citation, or 14 calendar days after the mailing of the notice of delinquent parking violation, the parking penalty shall consist solely of the amount of the original penalty.

(c) If, within 21 days after the notice of parking violation is issued, the City and County of San Francisco determines that, in the interest of justice, the notice of parking violation should be canceled, the City and County of San Francisco shall cancel the notice of parking violation pursuant to subdivision (a) of Section 40215. The reason for the cancellation shall be set forth in writing.

(d) Following an initial review by the City and County of San Francisco and an administrative hearing pursuant to Section 40215, a contestant may seek court review by filing an appeal pursuant to Section 40230.

(e) The City and County of San Francisco or a contracted law enforcement agency may contract with a private vendor for the processing of notices of parking violations and notices of delinquent violations. The City and County of San Francisco shall

maintain overall control and supervision of the program.

(f) This section shall become operative on January 1, 2027.

SEC. 7. The Legislature finds and declares that Sections 1 and 2 of this act, which amend and add Section 40240 of the Vehicle Code, impose a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to protect the individual privacy rights of those individuals depicted in video camera footage relating to parking violations, it is necessary that this act limit the public's right of access to the images captured by an automated parking control device installed on public transit vehicles owned by a city, county, city and county, or transit district.

SEC. 8. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because, at the time of this enactment, the City and County of San Francisco has demonstrated by its participation in the pilot program and reporting to the Legislature that it has adequately addressed various privacy and equity impacts of an automated enforcement system to enforce parking violations occurring in transit-only traffic lanes.